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VOL. VIII.

WASHINGTON, D. C., JANUARY, 1877.

No. 1.

THE REVOLUTION—HOW IT WILL FAIL.

THE SCHEME OF ELECTING BY THE HOUSE.

Daniel Webster, in his great reply to Hayne, said, that when a thing is to be done an ingenious man can tell how it is to be done; and then he went on in a strain of masterly irony to show how Colonel Hayne would have to meet the great exigency which must inevitably come when his doctrine of nullification should be carried to its logical extremity.

We are once more, forty-six years later, met with a revolutionary doctrine in regard to the election and counting of votes for President, and have to face immediately the logical extremity of the Tilden doctrines, if his friends shall presume to carry them to that point on the 5th of March next, or at any previous moment.

On the second Wednesday of next February, two months hence, the two Houses are required to meet, that the votes may be counted. This is demanded by the Constitution, and the ingenious man of the Tilden party, in one of his happiest and most fertile conditions of heart and brain, suggests that should the House decide not to go to the Senate, and the Senate decide not to go to the House, it would be impossible for the constitutional meeting to take place, impossible to make the count as the Constitution requires, and in consequence there would be no declared election. By this course the House would be no more responsible than the Senate for the failure, as it has just as much right to say it will not go to the Senate as the Senate has to say that it will not go to the House. The result of this failure to meet would enable the House to decide that there had been no election,

and then the House could immediately proceed to elect, and Tilden would become the President.

The difficulties in the way of this plan are several. It would put an end forever to the election of President by the people, and the House would in the future choose the President. The precedent once established, the House would be tempted to assume the sole power of making the President, and would really through this power become the Government to all intents and purposes; for it would elect only such man as would act with it and do its bidding, and the constitutional check of the Senate would become obsolete. By this one act our whole system of government would be changed, as, for the sake of the power, the House would never again agree to meet for the purpose of consulting.

This consideration will be of itself sufficient to induce resistance to the plan on the part of the Senate, and this resistance may come in this way, viz: The President of the Senate, by virtue of established usage, will call the meeting in the Senate Chamber, because, in the present temper of the House, and with the present uncertain officials by which that body has surrounded itself, the question of personal safety of the presiding officer has become a powerful element in the calculation. The Republican members of the House will respond to the notice and appear, and, if no others come, they will be the House for this purpose of witnessing the counting. There being no provision in the Constitution or in the statutes requiring that the declaration of the count shall be made by the Speaker or

certified by him, no official business can be transacted by the House, and no quorum is required; so that the presence of any of the members at the counting will answer the letter of the requirement, and enable the presiding officer to declare the votes to have been counted in presence of the two Houses, and he will so make record and so certify to the Department of State; and this will be the official, constitutional, and customary evidence of the election of President, binding on all branches and officers of the Government.

Now, if the House fails to meet the Senate, and endeavors to take advantage of the failure to declare a non-election of President, it will declare what is contrary to the official fact, as determined by the action of the Senate and its President; the declaration will be void, and any election on its part based on such declaration will be void and of no effect. The heads of the Army, Navy, and Treasury will refuse to recognize the President so chosen, the Senate will refuse to confirm his appointments, and not a dollar can be drawn from the Treasury to pay for his support or for the support of his agents, followers, or retainers.

The proposition to prevent a count by the refusal of the House to go to the Senate Chamber will not prevent the count; and as this will be seen before the day comes round, it is quite safe to say it will be abandoned. The refusal of itself would be regarded as extraordinary, as an attempt to defeat an election by refusing to perform a constitutional duty on the part of one branch of the National Legislature; and a body about to resort to a revolution cannot afford to begin it by a violation of the plain terms of the instrument from which they derive their existence and functions.

In counting, the Republicans must follow the method authorized by George Washington; if that is not right let Fernando Wood present articles, and have George impeached, then there will be a legal solution of the question.

The certificate that there had been no election by the people would not be authenticated by the Senate, nor by the Pres-

ident of the Senate, and there would be none of the usual papers and documents in the possession of the House to sustain the validity of their action in the electing a President. The House would simply, by its own arbitrary action, declare that there had been no election, and that declaration would be an entire falsehood. A large majority of the people believe Hayes has been elected, the others that Tilden has been, and nobody that no one was elected. Under the circumstances, there was no possibility for a failure to choose. The electoral vote is an odd number. Mr. Tilden had 184, and the vote of no State was divided. No State had less than three votes, so that if Tilden had more than 184, he could not have had less under any circumstances than 187, which would elect him. If the claim is made that Oregon was divided, then he would have 185, and that would elect him. If he had but 184, then Hayes had the others, 185, which elect him. If the vote of Louisiana is not counted, or South Carolina, or Florida, or Oregon, either or all, then Tilden is elected; so that in no case can a declaration of non-election be true; and if the Democrats assume that there was no election, they lie, and know they lie, and all men know they lie, and that the lie is told or assumed in order to give them an excuse for electing Tilden President.

The Constitution gives the House power to choose the President only in case of a failure of the people to elect. Were the number of votes in the electoral college even, there could have been a tie, or had more than two persons received votes in the college, there could have been such a thing as no choice; but in this case no choice was an impossibility, the contingency for an election by the House which the Constitution made provision for has not happened, and no declaration of the House that it has happened can stand against the fact for a moment. That somebody has been elected, is as certain as that 184 and 185 added make 369. No party can for an instant attempt a revolution on an assumption which can be mathematically exploded, and the President and Senate and Supreme Court would be compelled

to treat as void an election by the House in a case where the House had no constitutional power to proceed in an election at all—a case where, by mathematical demonstration, the people had made a choice, and where in the nature of things a failure to choose could not occur.

It may be said that, by the failure of the House to appear at the appointed time to count the votes, the votes will not have been constitutionally counted, and hence that the election has not been fully accomplished, and there has been just as much a failure to elect as though there had been a tie, or no person had received a majority. But the Constitution does not read that whenever the House may decide not to perform the duty of being present on the second Wednesday of February, it may declare that no person has received a majority of the electoral vote, and no twisting words, no inferential reasoning, no sophistry, and no bull-dozing of language, can make it say any such thing. It does not say when there shall be a failure to count by anybody that the House shall have power to elect. All it says is that when the counting shows no person has RECEIVED a majority of the votes, the House shall elect the President, and it grants the power on that one contingency, and not on a failure to count, or any other failure save the one expressed.

It is perhaps not strange that the Democratic party, which has carried so many elections on the count, should make the mistake of thinking that a failure to count is equivalent to a failure to elect, but the Constitution stands in the way of this theory with such impressive distinctness, that the little game will not work on this occasion, and they may as well assume the Government outright by force, and plead necessity at once, as to hang upon an excuse that is so enormously attenuated.

And this disposes of all the chances of every kind which the House has been supposed to have of electing Mr. Tilden, because the returns will show an election, they will be counted if the Democrats of the House are not present. Somebody has certainly been elected, and the House cannot alter the fact by a resolution any more

than they can by resolution alter the fact that the sum of 185 votes is more than the sum of 184 votes.

THE MEETING OF THE TWO HOUSES.

The power of the House being shown inadequate to defeat the declaration of the election of Hayes, it may be taken for granted that the Democratic love for the forms of law and its ancient spirit of obedience to the requirements of the Constitution will return in time to impel the members of the House to attend and witness the counting of the vote by the President of the Senate, and that the usual meeting will take place. Not to attend will be a proclamation on the part of the Democrats that they propose a remedy for their supposed grievances outside of the Constitution; and that is an attitude of rebellion which will injure their cause beyond any recovery. The House will attend, and the athletic Speaker will as usual be accorded a place of honor, probably by the side of the high officer of the Senate, who has been intrusted with the returns, the duty of opening them, and who, by precedent of the early days of the Republic, when the framers of the Constitution were living, and many of the wisest and ablest of them were present, is entitled to count the votes. The disagreement between the two Houses will undoubtedly prevent the operation of any former joint rules and the adoption of any new ones, and hence the proceedings will be carried on without them, and under the practice at former meetings for the counting of votes. The President of the Senate will be master of ceremonies, and will attempt to conduct them in accordance with former usage and the ideas which the Senate entertains of his and their rights and prerogatives. The assumption will be that the act of counting is purely ministerial; that no speech, resolution, motion, or other proceeding, save what is strictly incidental to the opening, counting, and declaring of the votes, is in order.

At what stage the House will endeavor to assert its supposed prerogatives will depend upon the agreement at the Democratic caucus, and for our present purpose this is immaterial. Perhaps a member may make a motion that the call of States shall be

made in a particular order. To put this motion would be construed by the Democrats to be a concession that the majority, that is, the House, can direct and control the presiding officer, and the moment that is yielded the House will have full control, can adopt resolutions to go behind the returns, determine the validity of votes, certificates, and returns, and in fact it will become master of the situation. Unless the predominance of precedents shall have determined that such a motion is purely incidental to the counting, if the motion is made, the President of the Senate will declare it out of order, and also all subsequent motions proceeding from members of the Senate or House. Should it be allowed, then on some motion to exclude, or amend a return, or substitute one return for another, the point of order would be taken and decided against the mover. An appeal would then be attempted, which the presiding officer will decline to entertain, and at this point the Speaker may think his supreme moment has come for immortal distinction, and endeavor to put the motion, and declare the result of the vote. This will be the point of collision. The President of the Senate will be compelled by his oath of office, his sense of duty, and by all the natural instincts of a man, and regard for the reputation of his high position, not to allow his prerogatives to be usurped by any one on such a momentous occasion; and if the recusant Speaker, or any other person, does not obey his mandate to keep in order, the usual method must be resorted to to preserve order and maintain the dignity of the occasion. After the vote has been declared, that the force will be adequate to uphold the count, those who know the qualities of Generals Grant, Sherman, and Sheridan, and the manner of the Republican party in dealing with disturbers of the peace and plotters against the regularly constituted authorities of the nation, need have no doubt. What the arrangements may be it is not our province to indicate, but they will be ample for the emergency, and the friends of peace may rest assured that if any plotter or schemer undertakes a scrimmage he will be arrested and dealt with like any other rioter or law-breaker.

This will assuredly happen unless a superior force is present in the interest of the defeated party which will overpower and put down the President, the Senate, and the Army of the United States. In that case there will be a military government under the control of a single branch of Congress, which will hold all power until it transfers it to the hands of the leading revolutionist on the 4th of March. The contingency is so improbable that it may be at once rejected.

THE CASE PRIMA FACIE.

So far we have proceeded without reference to the merits of the election, whether Hayes or Tilden has been rightfully chosen, and on the theory that the President of the Senate will have a set of returns forwarded by the electors which are accepted by him as the duly chosen electors; that he is the officer appointed to open the returns; that the returns which he will open are the returns which will be counted and no others, and they can be got rid of only by unusual, irregular, forcible, and revolutionary action on the part of the House. All the points so far, aside from moral considerations, are with the Republicans, and only by forcibly substituting other returns or through concession on the part of the Senate, can the Democrats make any headway toward accomplishing their purpose; they fail unless they can get behind the returns in the hands of the President of the Senate, and getting behind them does not insure success; for, after all, the Senate and its President may and should refuse to be overruled by the House; should refuse to sign the certificates, and that will compel Tilden to get inaugurated without the regular certificates, and in an irregular, clandestine, and illegal manner, with the danger of being arrested for treason in setting up government as a usurper. It will be the same case precisely as was enacted by Dorr in Rhode Island in 1842, when he was inaugurated Governor without the regular forms of law, was arrested, tried, and punished for treason by the State, whose action was declared valid by the Supreme Court of the United States, as every student of history knows. On its face the case will be wholly in the hands of the Republicans, and they

should only yield to superior force or such moral considerations as shall be imperative.

THE MORAL ATTITUDE OF THE CONTESTING PARTIES.

It is to be assumed that the Republicans fully believe they have fairly elected Hayes, and it may be conceded that the Democrats honestly think that Tilden has a lawful majority of the popular vote in one of the three contested Southern and pivotal States. But there has been a wide difference in their methods of meeting the crisis. The Republicans at the start, when it was reported that Tilden had the contested States, and with them Oregon, Wisconsin, and some others which he did not have, gracefully acquiesced, said not a word about fighting, and resorted to no tricks and dodges to overcome the actual returns. On the other hand, violent supporters of Tilden have threatened first, last, and all the time, that no matter what may be the official returns, Tilden is to be inaugurated; and they have tried first here and then there to find the one vote, whose absence seemed to be the ditch which could not be waded or leaped. They have seemed to think that many strings to their bow would be strength; but it has proved their weakness. A good lawyer never tries a plea of insanity when he has a fair alibi.

There were the unusual proceedings in South Carolina, where the court issued a mandamus to make returns to the judges who in law had no authority over the canvass, and to make them in a certain way, counting in everything. This was done, and still the Hayes electors had a majority. Then they tried Florida and failed. Then they attempted to rule out Colorado as a State, and though a Pennsylvania President and Attorney General could find no constitutional power to coerce a State to stay in the Union, a Pennsylvania speaker discovered ample power to coerce one out, or supposed he had when it became necessary to elect his candidate for the Presidency.

Then there was a resort to the doctrine of the 22d joint rule as being in force, and by virtue of which the House hoped to get behind the returns; then the Oregon case, with its neat little trick of a governor exercising judicial powers to count in an elec-

tor notoriously not the choice of the people, and the Punch-and-Judy performance of the same elector in holding on to the certificates of the chosen electors, and filling two vacancies which never existed, by his single vote, like Tom Benton, "solitary and alone." With a strong moral case, one that could stand the scrutiny of an intelligent people, there would be no need of a resort to tricks of the nature that we have specified, to decide the South Carolina case by unauthorized judges; to cheat Colorado of her birthright as a State, and turn the election of Oregon into a broad farce, and bring about a result which in the case of Missouri and New Jersey they would not themselves abide by.

Tilden says with Gloster:

"Why, then I do but dream on sovereignty;
Like one that stands upon a promontory,
And spies a far-off shore where he would tread,
Wishing his foot were equal with his eye;
And chides the sea that sunders him from thence,
Saying—he'll lade it dry to have his way.
Well, say there is no kingdom then for Richard;
What other pleasure can the world afford?"

These dodges, the seeking for some weak spot, and Tilden's ambition, are against the Democrats, and the circumstance is of great moral advantage to the Republicans.

OREGON.

Nothing can come of the Oregon case to their assistance, because if they can maintain successfully that there was no vacancy, and that Cronin was elected in consequence of the ineligibility of Watts, then one vote for Tilden must be counted for Hayes in the case of the ineligibility of Frost in Missouri. If you can go behind the returns to rectify Oregon, you can in Missouri, the cases being identical, save so far as the illegal action of the Oregon governor has an effect on the technicality of the certificate. The Democratic party is not going to make war on a mere technicality, in a case where the majority vote of the people is known to be against them, and in a case where they will not follow a rule, which, in the same election, they have acted on in another State. To open Oregon is to open Missouri, and then the prize remains the same distance off as before.

LOUISIANA.

The case of Louisiana is different, be-

cause on the face of the returns there was a majority for Tilden. We have already shown that it will be impossible for the House to go behind the returns which will be opened by the President of the Senate; but it is necessary to go farther than this to satisfy the country, and show also that this is right. They who have read the Trumbull and Julian report will have noticed that by far the greater portion of it is devoted to merely technical and legal questions, going to show that whatever may have been the opinions of the people and voters of the State the legal expression of them was in favor of Tilden, and for this reason must be accepted as final. The importance of technicality is thus conceded by the committee. They have a long argument to show that it may be doubtful whether there was any law for the choosing of electors at all, and if that view can be maintained the vote of Louisiana would be lost, and Tilden would then have a majority of votes cast. It is safe to say that in a point of such tremendous impending consequences, with such a rabid partisan set as the Trumbull committee, if they can do no more than assert a doubt, the fact that there was an election, and no one objected to it, and all parties went and voted, and Lyman Trumbull went from Chicago to count the votes, the legality of the election is quite likely to stand, and the committee might just as well have curtailed their ponderous document by at least a third of its dimensions.

They then proceed to argue that if the election be found legal the returning board had no power to count the votes, because the statute of the State does not expressly and in terms grant the power to the board. If this is a sound argument and nothing is to be taken by implication, it settles Tilden's case on the second Wednesday of February effectually, because neither the Constitution nor the statutes give any express power to the House to count the votes or go behind the returns, and the whole of their claim in this regard rests on implication entirely, and far-fetched at that, being no less than from the deepest recesses of the deep head of Jeremiah Black, who can almost make black white. Trumbull and Julian by this

argument have demolished the hope of the Democrats for counting by the House, for the power to count and judicially to decide on the returns must be expressly granted, or it does not exist; and it is not expressly granted.

Another point in favor of the Republicans is, that were there any reasonable doubt of the power of the returning board to make the count, it is too late now to question it. The Constitution confers upon each State the right to appoint electors, and the State can do it in its own way, and the fact that the electors have been appointed according to law, the State determines for itself; and it cannot be determined by Congress, as the power is neither granted nor implied. The evidence that the electors have been appointed and have voted, is contained in the certificate which they present and the record of their action, which they themselves make and forward to the President of the Senate. This done, the case is closed, and there is no authority anywhere to open it. It has been completed in Louisiana, the recognized Governor has signed the papers, and there is nothing against it pretending to be legal but a certificate signed by John McEnery, which is of no more account than if signed by John Smith. A final judgment by the State authorities has been made, by the recognized authorities, and no plea to the jurisdiction can now be sustained. As the Trumbull committee are sticklers for the forms of law and technicalities, let them abide this result.

BULL-DOZING.

But Rutherford B. Hayes is not like Tilden, and does not stand and sigh:

"This earth affords no joy to me,
But to command, to check, to o'erbear such
As are of better person than myself,
I'll make my heaven—to dream upon the crown.
* * * * *
And yet I know not how to get the crown."

No, he will not accept the Presidency unless it is rightfully his, by the free, fair suffrages of the American people.

And this fair election depends largely upon whether there was bull-dozing in the Southern States. The natural probability is that in North and South Carolina, Alabama, Mississippi, Arkansas, Florida, and

Louisiana the Republicans have a majority, and this can only be overcome by preponderating testimony showing that the election was fair, and no bribery or intimidation was resorted to. Were the testimony anywhere near even, the doubt would have to be given to the Republicans, on the sole ground that the States have a colored vote so large, and so dependent for any rights of freemen upon the party which gave them freedom and suffrage, that they would not carelessly, or inconsiderately, or naturally vote for men who have always been hostile to extending to them any rights whatever.

But, in addition to this, the Tildenites call upon us to accept merely on their word the most monstrous improbability that was ever ventured upon the credulity of man. They say there has been no bull-doing; and yet the Democratic party is a natural bull-dozer. It bull-dozed in 1856, and threatened to make war if the Northern people elected Fremont. Intimidation was the game, even then, to carry the election. In 1860 this same intimidation was repeated, and so successful were the demonstrations that even after Lincoln was chosen Charles Francis Adams and other chicken-hearted persons were frightened, and proposed to pacify the beast by giving up most of the principles which they had voted for. Then the party bull-dozed to prevent the inauguration of Lincoln, to prevent the President from feeding the soldiers who held the fort and sustained the flag over the national property at Sumter; and then they fired on the flag. Then they marched on Washington, and threatened Philadelphia, and tried to burn New York, and raised a riot, and did burn the asylums of the negroes. They got up their Knights of the Golden Circle in Indiana, about which Hendricks knows a good deal more than he dare tell, and their legislature bull-dozed the Governor of the State out of the regular supplies to carry on the government. They assassinated Abraham Lincoln—the greatest crime of ages; they got up Ku-klux Klans, and carried murder and terror through the entire Southern country; and so deep was the damnable atrocity of their crimes that the venerable and distinguished

lawyer, Reverdy Johnson, who was sent down to defend them, supposing their cases had some ameliorating circumstances, was compelled to do what no other lawyer of equal distinction in this country ever did: throw up the sponge in utter disgust and flee from the country as he would from the ravages of yellow-fever, cholera, and small-pox combined.

And they are bull-doing yet. They are threatening war now. George W. Julian has turned bull-dozer, and calls upon the bull-doing fraternity to rise and resist the result of the election. Hewitt is issuing manifestos to have meetings got up all over the country for the sole purpose of intimidating Congress to count Tilden in. They will not rest on argument, and will not trust to reason and the decision of the legal authorities—it is not their style; but all the timid merchants and bankers are to be scared into crying, "For God's sake give us Tilden, or we shall perish!"

And we are called upon to believe that in Louisiana all this has been changed; that while bull-doing might do very well with the educated people at the North, the colored people at the South were met with the graces of argument, the persuasion of silver-tongued oratory, the sledge-hammer of logic, and that beautiful coronet of sympathizing friendship which the mild-mannered average member of the Ku-klux order wears openly upon his manly brow to charm the affectionate negro into joining the bull-doing operations which are aimed solely at the Republicans of the North. There are some murders, but they have "no political significance." M. C. Butler and his crowd shoot down a few colored men, but it is in such pure friendship to the race that all the negroes of the vicinity are suddenly seized with an inordinate desire to vote for his friend, Wade Hampton, and their anger against Chamberlain is so aroused that only the powerful arm of Butler and Hampton can save his life.

It is a melancholy thought, that in this age of the world, and after a hundred years of the educating influences of free government, the election of a President depends upon exposing falsehoods of such glaring and preposterous proportions. There isn't

a shadow of a shade of reason for believing that the Democrats, with their high-handed measures of bull-dozing everywhere, have made Louisiana an exception, or the negroes anywhere an exception, and their oaths are of no more account than Timon's slurs.

"You are not oathable—

Although I know you'll swear, terribly swear,
Into strong shudders, and to heavenly agues,
The immortal gods that hear you."

Such swearing the world never listened to before. They

"Swear against objects;

Put armor on thine ears and on thine eyes;
Whose proof, nor yells of mothers, maids, nor
babes,
Nor sight of priests in holy vestments bleeding,
Shall pierce a jot."

It is a very easy thing for a man a thousand miles away from Louisiana, who never was in the State, who never put eye on a single witness, and who is spoiling for a fight, or spoiling from fear that there will be one, to sit down in his shop or study, or more likely in some drinking den in New York or Boston, and be able to decide on the worth of testimony and swear that Tilden has been elected by a majority of votes, and must be inaugurated or there will be trouble; but the calm and intelligent solid citizen who wants no office, whose brain is clear, and whose heart is not demoralized, will think twice before he decides to fight on such evidence and arguments as appear in the *New York World* and the *Boston Post* and the *Washington Union*.

It is well to consider the difference in the characters of the two classes who will give testimony to the facts in the case. On the one side will be people who have been educated to despise and oppress and hate the negro race. As late as 1867, two years after the South had, as they say, accepted the situation, an able Southern man and a Union man, too, from the start, wrote a book which found its principal admirers in the Southern States, in which he gives expression to the established sentiment of that section as follows:

"If, in a spirit of rebellion against the laws of nature, we love the negroes and other black things, we shall thereby only gain the low distinction of gratifying the devil; but if, on the other hand, assuming attitudes of antagonism toward the imp-

of Africa, toward the prince of darkness, and toward all the other monstrous representatives of blackness and abomination, we hate them with a perfect hatred as they deserve to be hated, and as we are required and expected to hate them we shall thereby render pleasing and acceptable service to the Deity; and continuing to please Him will receive for ourselves everlasting and unlimited felicity in Heaven."

Men thus educated will testify on one side, and on the other, the frightened negro.

"In a bondman's key,

With 'bated breath and whispering humbleness."

Which are you going to believe, the man who says he was scared and dared not vote, or the bull-dozer who says he wasn't? Will you not consider that the man who would deprive the humblest American citizen of his sacred right to vote would also not hesitate to give his opinion that all was lovely and peaceful? Will you not remember that Robert Toombs declared that he wanted to cheat and frighten the negroes from voting, that he believed it was right to do it, and he paid his money to have it done? It should take a large amount of clearly unsuspected testimony to prove the statement of a single negro false in a case of intimidation, for the probabilities are all in his favor. Now there are a thousand pages of printed testimony to the facts of maiming, murder, and intimidation in Louisiana. The poor blacks say they were frightened. Are you going to turn them out of court because some rascal who was interested in depriving them of their votes, and who perhaps rode through the country with a body of armed men, firing guns and making hideous yells at midnight, comes in and swears that there was no political significance in it? No, the thousand pages cannot, with all the attending probabilities in its favor, be overthrown by anything short of a volume as mighty and as truthful as Holy Writ. With a fair vote Hayes carried Louisiana—so was it legally and officially decided, such is the weight of testimony, so must the record stand—and the vote of Louisiana elects Hayes and Wheeler, and only by revolution can they be prevented from administering.

THE DUTY OF THE REPUBLICAN PARTY.

The Republican party has now to per-

form a solemn and momentous duty. Sixteen years ago it met the most momentous occasion of history in a manner that challenged the respect of all mankind and the admiration of all but the traitors and copperheads, who would rather rule in hell than serve in heaven. On that occasion it represented law, order, patriotism, the institutions of the Republic, the doctrines of Washington, Franklin, Jackson, Webster, Marshall, and Story, the work of patriots for eighty-four years, freedom, and the hopes of mankind for all future time. It stood for law as expounded by the constituted authorities, and was opposed by nullification, secession, treason, the spirit of disorder and anarchy, and claim of the right of a State to destroy the United States. The claim made now is the right of one branch of one department of the Government to override the other branch and the other departments of the Government in settling the question of the Presidency by numerical force, backed by physical force if it can be obtained, through the going behind of the regular returns in the hands of their constitutional custodian; and they are supported by the identical parties and individuals who represented slavery, treason, anarchy, and war in 1861.

The Republican party must decide whether it will stand by and see defeated what it believes was an honest election, or whether it will yield to these dangerous forces, the spirits of Belial, which for forty-six years have been in one form or another menacing the existence of the Government.

When General Jackson, the hero of New Orleans, was threatened by these ministers of evil, in the form of nullification, he said: "I have no discretionary power on the subject—the laws must be executed." When James Buchanan was threatened with treason he employed a crafty lawyer, a confuser of language, and a mystifier of words, to furnish him with an excuse for abandoning the noble and immortal stand taken by Andrew Jackson, and like a cowardly fool he skulked behind the flimsy sham set up by his bull-dozing of language, which, instead of screening his weakness, only exposed and magnified his pusillanimity and disgrace. No man will contend

or believe that the training and antecedents and character of Grant warrant us in thinking that he will play the role of Buchanan on the last, perhaps the grandest occasion of his career, for the sake of relieving the Sage of Wheatland from his solitary position of infamy in the chronicles of American history. The reverse is in the mind of every patriot. It took eighty-four years for the Democratic party to spawn a first Buchanan; shall the second be brought forth in sixteen years? No; General Grant will never play the character of the "Lost Leader."

The Republican party has a duty to perform, and that is to stand by and defend the will of the people as expressed by the constituted forms and in the regular manner. Said Daniel Webster, (Vol. 6, page 225, edition of 1851):

"The people must vote at a particular place, at a particular time, and under particular conditions, or not at all. It is in these modes that we are to ascertain the will of the American people, and our Constitution and laws know no other mode. *We are not to take the will of the people from public meetings, nor from tumultuous assemblies, by which the timid are terrified, the prudent are alarmed, and by which society is disturbed.* These are not American modes of signifying the will of the people, and they never were. If anything in the country not ascertained by a regular vote, by regular returns, and by regular representation, has been established, it is an exception and not the rule; it is an anomaly which can scarcely be found."

The party and the country have to decide the case on the returns made. We cannot go down to Louisiana and ascertain who were qualified voters, where they voted, how many voted twice, how many were deterred from voting, by violence or violent demonstrations, or by tricks to prevent their votes from being cast. All this has been decided by the State authorities, on whom by law the power and duty was devolved, and had it not been, Congress has not the time to do it and cannot do it.

That there will be mutterings and threatenings is to be expected, but if the elections in this country are to be decided by mutterings and threats of war, it may as well be known now as any other time. When the crisis comes, however, and Samuel J. Randall or Samuel J. Tilden resists the decision by force, scales will begin to fall from Democratic eyes, as they did in 1861, and many will see men as trees walking.

THE WORK OF THE FORTY-FOURTH CONGRESS.

MEETING.

Congress re-assembled at 12 M. Monday, December 4th, a quorum of both Houses being present. The Senate, being fully organized, was called to order by the President *pro tem.*, Hon. Thomas W. Ferry, of Michigan. Prayer was offered by the chaplain, Rev. Dr. Sunderland. The swearing in of Senators then proceeded, namely: Mr. Blaine, of Maine; Mr. Price, of West Virginia; and Messrs. Chaffee and Teller, of Colorado, the Centennial State. The last two gentlemen then drew numbers for the class to which they would be assigned. Mr. Teller was then assigned to the class whose terms expire in 1877, and Mr. Chaffee to the class whose terms expire in 1879. Senator Edmunds, of Vermont, proposed a series of resolutions instructing the Committee on Privileges and Elections to inquire into the whole subject of the franchise of American citizens, and the eligibility of electors, which resolutions were ordered to be printed and to lie on the table.

Senator Ingalls, of Kansas, presented a joint resolution proposing a national convention to revise the Constitution of the United States, which was ordered to lie on the table and be printed. Whereupon the Senate adjourned.

In the House, where the Speaker's desk was draped in mourning for the death of Speaker Kerr, who died in August last, at 12 M. order was called by the Clerk, Hon. George W. Adams, and the call of the roll proceeded. Two hundred and forty-eight members answered to their names. The Clerk announced a quorum present for business. Mr. Banks, of Massachusetts, rose to present the credentials of James B. Belford, Representative from the new State of Colorado, and asked that the usual steps be taken to place his name on the roll of members. Upon this motion the Democrats immediately showed resistance, and after a long contention the Democratic majority decided to refuse the request, and proceeded to the election of a Speaker in place of Mr.

Kerr, deceased. Mr. Samuel J. Randall, a Representative from Pennsylvania, was chosen, and having made a wretched partisan and inflammatory speech, and taken the oath of office, assumed the Speaker's chair.

The House then proceeded to swear in the new members, and the case of the Representative from Colorado was again discussed. But though the whole weight of authority from past examples was in support of the proposal to admit the member, the Democrats, out of sheer political considerations, refused to recognize Colorado as a State in the Union, and referred the papers of Mr. Belford to the Judiciary Committee, where it can be held the whole winter long, thus virtually denying the right of a sovereign State of this Union, which has never been in rebellion, to a representation on the floor of the House. The proceeding is most outrageous, and ought to bring down the condemnation of the whole country upon the high-handed act. Another, nearly as gross on the part of the Bourbon Democracy, was to exclude Mr. C. W. Buttz, a member-elect from South Carolina, by referring his papers to the Committee on Privileges and Elections, where it may sleep during the balance of the session.

Mr. Hamilton, of Indiana, proposed a resolution making Saturday, December 16th, at 2 o'clock, the time for pronouncing the usual eulogies on the deceased M. C. Kerr, late Speaker of the House, which was adopted.

But the chief business of the first day was the appointment of a roving committee to go into the Southern States, and rake up election frauds, preparatory to the contest impending on the counting of electoral votes for President and Vice President. For this purpose a vote was taken, and the rules were declared suspended, although an error was made in the count, by which one Republican member was deprived of his vote, which, if it had been recorded as it should have been, would have defeated the

suspension of the rules. The next day, Mr. Plaisted, of Maine, being this member, strove to have the Journal corrected, and his name inserted as voting in the negative. But this was fiercely resisted until it was discovered that a Democrat had voted for the suspension of the rules whose name, Mr. Fuller, of Indiana, was not recorded, and this vote, together with the casting vote of the Speaker, would still support the suspension of the rules. And at last, upon this discovery, the Journal was permitted to be corrected. The ruling of the Speaker in this disgraceful business was an outrage upon all rule and precedent, and shows the desperate tactics of the Bourbon Democracy in the House. But at the same time it must be said that the Republican members who were absent on the first day, when this business was sprung upon the House, were some of them at fault, as they could have defeated the plan had they been present. But the door has now been thrown open for all manner of statements by Congressional committees to complicate still more the grave difficulties which lie before the present Congress and the nation. The committee thus raised is composed of the following members: Messrs. Saylor, Abbot, Stenger, Eden, Phillips, Banks, Lapham, and Lawrence—five Democrats, one Independent, and two Republicans. They have since gone South to gather materials for a report.

THE PRESIDENT'S EIGHTH AND LAST ANNUAL MESSAGE.

This was received in both Houses on Tuesday, December 5th. In the Senate it was read and contains the following points: Matters personal to President Grant when he assumed the Presidential chair, placing in a clear and forcible light the previous history and the then condition of the country, and showing the peculiar difficulties with which the Administration had to deal, both at home and abroad. He shows that the rebellion of the Southern States had entailed a vast debt and a burdensome taxation on the country, and that in the period of his Presidential terms the taxes have been reduced nearly three hundred million of dollars, and the national debt at the same time reduced over four hundred and

thirty-five million of dollars; that the annual interest has been reduced from one hundred and thirty million in 1869 to but little over one hundred million in 1876, and that the balance of trade has been changed from over one hundred and thirty million against the United States in 1869 to more than one hundred and twenty million in our favor. He expresses full confidence that this balance in our favor will increase, and that the pledge of Congress to resume specie payments in 1879 can be easily accomplished. The message treats of the pacific policy adopted toward the Indians, and refers to the reports of the Secretary of the Interior and of the Commissioner of Indian Affairs for a full elucidation. The message states that the country is still on a friendly footing with all foreign powers, a pre-eminent proof of which was given by their cordial participation in the National Centennial Exhibition; it then refers to the reduction of appropriations for the foreign service made by the Congress at its last session, and the steps taken to carry out that legislation, expressing at the same time the decided opinion that such economy will prove detrimental to many important interests of the country abroad, and that Congress upon a re-examination of the subject will decide to make some important changes.

It speaks of the satisfactory results of the labors of the Alabama Claims Commission, and says its work will doubtless be completed within the time prescribed by law. It states that the joint commission for fixing the boundaries between the United States and the British Possessions have brought their work to an amicable and mutually satisfactory conclusion, and the report upon this subject will be presented to Congress in due time. It reserves for a separate communication to Congress a statement of the conditions of the questions which lately arose with Great Britain respecting the surrender of criminals under the treaty of 1842. It states the termination of the treaty relating to commerce and navigation with the Ottoman Government, and that negotiations have been instituted for the formation of a new treaty. It informs the country that our Government

has, under the act of Congress, united with the other Powers in the organization of courts in the Governments of Turkey and Egypt for the protection of citizens and subjects in their rights in those countries.

It states that the Government has given effect to the legislation of Congress to carry into effect a treaty of commercial reciprocity with the Hawaiian Islands. It speaks of the complaints of American citizens on the Mexican border, arising from the lawless and distracted condition of that country, and says the subject is matter of present negotiation between the two Republics. It states that the Government of the United States of Colombia has paid the award due to claimants of this country, who have received the same, and that the joint commission for adjusting claims between the United States and Mexico has brought its labors to a close, and it now remains for Congress to provide the necessary legislation in justice to those who are entitled to recognition by these awards. It states that the Government of Venezuela is making monthly payments on a small part of the amount due to American citizens, and wishes to change the present plan by issuing bonds for part of the amount of the several claims, which course is considered in the premises impracticable. The message treats very fully of the necessity of further legislation on the subject of the naturalization of persons coming here from other countries, to prevent fraud and to protect those who are honest and acting in good faith. It also invites attention to the subject of marriages contracted by our people abroad, and the delicate and complicated questions constantly arising in connection therewith. The message recites the steps taken for the admission of Colorado as a State into the Union, and refers to the proclamation of the President announcing the admission complete. It refers to the operations of the army during the last year, showing its field of action to have been in the West subduing certain portions of the Sioux Indians, and in the South to preserve the public peace.

The recommendations of the Secretary of War that the class of claims heretofore adjusted in the Quartermaster's Department

be transferred to the Southern Claims Commission; that the scheme of an annuity fund for the families of deceased officers, and for the permanent organization of the Signal Corps should be sanctioned by Congress; and that the manufacturing operations of the Ordnance Department be concentrated at three arsenals and an armory, are urged upon the attention of Congress. The message speaks of the great necessity of a larger appropriation for army purposes, and shows how utterly inadequate it has been rendered by recent legislation. In the same manner the operations of the Navy Department have been crippled, although the navy is now in a condition as efficient as it can possibly be rendered with the means afforded. It states the appropriations made the last year were in amount actually less than those made before the war. The message speaks of the report of the Postmaster General, which shows the excess of expenditures (excluding expenditures on account of previous years) over receipts for the current fiscal year to be \$4,151,988.66, and which makes an exhibit for the fiscal year ending June 30, 1878, as follows:

Estimated expenditures.....	\$36,723,432 43
Estimated revenue.....	30,645,165 00
Leaving estimated excess of expenditures	6,078,267 43

In some places in the Southern States the agents of the Government have expressed apprehension of the danger of their lives, of which an instance occurring at Spartanburgh, South Carolina, where a mail messenger was violently driven away from his post of duty, seems to be some evidence. The message refers to the interesting reports of the Commissioner of Agriculture, of the Commissioners and the Board of Health of the District of Columbia, received too late to read and submitted to Congress without recommendations. It also speaks of the gratifying success of the Centennial Exhibition at Philadelphia, and makes a recommendation in regard to the disposition of the Government exhibit, and also suggests some act of Congress in suitable recognition of the kind co-operation of other nations on this memorable occasion. The message also treats of the great importance of further legislation in respect to

the subject of choosing and declaring the election of President and Vice President of the United States. The message closes with a *resume* of the President's views and action in regard to the acquisition of Santa Domingo, and with a full list of his former recommendations in the several annual messages he has submitted to Congress; and the final paragraph, which multitudes will note with sadness, reads as follows: "With the present term of Congress my official life terminates. It is not probable that public affairs will ever again receive attention from me further than as a citizen of the Republic, always taking a deep interest in the honor, integrity, and prosperity of the whole land."

And we venture to say, that if the country should be in imminent peril, there is no living man to whom the eyes of the whole country would be sooner turned for aid than to the glorious soldier, the able civilian, the upright citizen, the noble man, General Ulysses S. Grant.

THE OVERSHADOWING QUESTION.

Of course, the great, absorbing topic of the time is that of the next President of the United States. Since the 7th of November both parties have claimed the election, and the people of the country, though advised of the result in the college of electors on Wednesday, the 6th of December, are still in the deepest suspense, not knowing how the ever-thickening complications are to be resolved, while Congress has been mainly occupied with the discussion of measures and propositions to obviate the well-nigh insurmountable difficulties. In the Senate the time has been chiefly occupied upon the proposal of Senator Morton for an amendment of the Constitution providing for the election of President and Vice President by a direct vote of the people; also on printing a compilation in regard to the manner of counting the votes of the electoral college from the foundation of the Government; also upon the proposition of Senator Edmunds that the electoral votes should be counted by the Supreme Court of the United States. This last proposition has been earnestly discussed and voted down in the Senate.

Senator Edmunds has also introduced a

series of important resolutions relating to the denial of the right of suffrage to American citizens in several of the States under the fourteenth amendment, especially in the States of South Carolina, Georgia, Florida, Alabama, Louisiana, and Mississippi, and proposing that the Committee on Privileges and Elections be empowered to employ such persons and facilities as will enable them to conduct the inquiry most thoroughly, and that they also be instructed to inquire into the eligibility to office under the Constitution of the United States of any person alleged to have been ineligible on the 7th day of November last, and generally into all the facts and circumstances as bearing on the subject, and into the power of Congress to remedy existing evils, and report the same to the Senate. After considerable discussion these resolutions with some slight changes were adopted on Tuesday, December 5th, 1876.

Wednesday, December 6th, the Senate was principally occupied with two subjects: The placing of United States troops at Petersburg, Va., on or about the 7th day of November last, by the order of the President, and the state of the electoral vote of Louisiana. On the first, after much discussion, a resolution of inquiry asking of the President his reasons for so doing, was adopted. The second subject arose upon a message of the President transmitting a document relating to the electoral voters in Louisiana, and the results of the returning board of that State.

In the House, on Tuesday, December 5th, two other committees of investigation were appointed to visit the South and inquire into election frauds, namely, one for Louisiana, consisting of Messrs. Morrison, Jenks, McMahon, Beebe, Blackburn, Meade, House, Phelps, New, Ross, McCrary, Danford, Hurlbut, Crapo, and Joyce; the other for Florida, consisting of Messrs. Thompson, DeBolt, Walling, Hopkins, Woodburn, and Dunnell; subsequently, on Monday, December 11th, the House constituted a fourth committee, consisting of Messrs. Cox, Rice, Waddell, MacDougall, and Wells, to investigate election frauds in the cities of Philadelphia, New York, Brooklyn, and Jersey city.

In connection with this subject the Senate has instructed its Committee on Privileges and Elections to investigate fully into all questions relating to the recent election of President and Vice President, and this committee has been divided into sub-committees, to whom special portions of the work have been assigned, with all powers adequate and necessary to the performance of their labors. One sub-committee, consisting of Messrs. Howe, Wadleigh, McMillin, Oglesby, Saulsbury, and McDonald, has gone to Louisiana; a second, consisting of Messrs. Sargent, Teller, and Cooper, has gone to Florida; a third, consisting of Messrs. Cameron, of Wisconsin, Christiancy and Merrimon, has gone to South Carolina; while a number of the Senate standing committee, with Mr. Morton, chairman, remain in Washington. Congress will be flooded with reports in the coming month.

THE JOINT RULES.

One of the questions on which the House and Senate are divided is the twenty-second joint rule providing for the counting of the electoral votes. The Democratic majority of the House, with Speaker Randall at their head, with strange inconsistency, now contend that this rule is in force. Upon this point Senator Merrimon raised a question in the Senate, on which Mr. Ferry, the President *pro tem.*, promptly decided that these joint rules were not in force; whereupon Mr. Merrimon took an appeal from the decision of the Chair, which, after a sharp debate and a searching exposure of the gentleman's thorough inconsistency, resulted in a vote of the Senate, by 50 to 4, sustaining the decision of the Chair, some of the leading Democrats of the Senate voting with the Republicans, and several more shirking the question by not voting at all. From this emphatic decision of the Senate it is not likely that the House will persist in dissenting. In fact, a resolution for a joint committee, consisting of seven from each House of Congress, to prepare a mode of counting the votes of the electoral college, has been adopted, and the gentlemen appointed on the part of the Senate are Messrs. Edmunds, Morton, Frelinghuysen, Logan, Thurman, Bayard, and Ransom;

and on the part of the House the committee at this writing have not been appointed.

THE GROVER CASE.

A spirited debate has been conducted in the Senate upon the course of Governor Grover, of Oregon, in giving a certificate of election to one Cronin as having been elected by the voters of Oregon a member of the electoral college of that State. Senators Morton, Sargent, Mitchell and others stripped the matter of all disguise, and laid bare the malfeasance of this Democratic governor in his official conduct touching this matter. The most intrepid of the Democratic Senators did not attempt to defend his conduct, but only argued to palliate his offense by contending that it was an error of judgment and not an intentional violation of law.

MISCELLANEOUS MATTERS.

The subjects of gold and silver coinage, of the Burlington and Missouri River railroad, of the fortification appropriation bill, of the post office appropriation bill, and the funding of legal-tender notes, have all received some attention in the House. The Senate has given consideration to minor matters of routine, but nothing of consequence in the regular course of legislation has been accomplished. Whenever any question has been presented involving in the most remote degree the subject of the Presidential election in either House, it has almost invariably led to protracted discussion of some features of the wide and complicated question.

THE EULOGIES.

On Saturday, December 16th, the day was devoted in the House to pronouncing the customary eulogies in memory of the late Speaker, the Hon. M. C. Kerr. Interesting addresses were made by several members, but as yet no action has been taken on the subject in the Senate. Indeed such seems to be the engrossing nature of the Presidential question that all other subjects, even involving the extremities of life and death, readily give way before it.

THE ELECTORAL VOTES.

The returns of the electoral votes of the States are daily coming in to the President *pro tem.* of the Senate, and the deepest interest is felt both in and out of Congress

upon the question of complication which they involve. Meanwhile, the country feels the serious depression of the uncertainty and suspense in every department of its pursuits. If the wisdom of Congress shall prove inadequate to the solution of the difficulties thus accumulated before it, there seems nothing left but for the presiding

officer of the Senate in presence of the two Houses, when the day shall come, to open and count the votes and declare the successful candidate. It will devolve upon him by the necessity of the situation to determine in the contested States which of the two sets of electors shall be counted, and by his decision the country must abide.

THE COLORED ELEMENT IN SOUTH CAROLINA.

For a colored man to vote the Democratic ticket from an honest impulse, indicates a change so radical that it is worth inquiring into. Of course, there can be no honesty where several colored men come forward to do so. It is contrary to nature, to the first impulses of the heart, and it can only be accounted for by their being driven to do so through fear, or that they have been bribed by promises of money or its equivalent. A colored Democrat is a political and moral monstrosity. To believe in the existence of colored Democrats, acting as freemen, would be about as sensible and as likely as to imagine a flock of sheep being suddenly smitten with love for the wolves. The farmer does not often put his flocks in charge of the wolf, because he knows they will be devoured in good time. And if colored men in the South have not had sufficient experience of the wolfish character of rebel Democrats, it seems rather late in the day to wish now to repose in the Democratic bosom, and lift up their voice and weep in the presence of a Democratic committee that they were restrained by their friends, not from making fools of themselves, but from combining with the common enemy of their race, and exposing more than their own numbers to a common and imminent danger.

But it is reported from the three States visited by Democratic committees to refresh themselves by the contemplation of Democratic frauds so stupendous in character that they must needs be invigorating to the Democratic Congressional mind, that colored men there are bewailing that they were not allowed to make Democrats of themselves and associate with their

white bull-dozing brothers, who are understood to pine for their society. Since Mr. Randall heard the complaint from Mr. Morrison, both have been quite unhappy, which is some comfort; for it certainly was great cruelty to part the colored from the white Democrats, who had hitherto been indulging their brotherly love, not by words of affection nor by sweet and tender embraces, but by putting ropes around the colored brother's neck and hanging him to a tree until he was dead, or by firing a bullet into his brains with the same fatal result. Such, indeed, were almost all the attractions with which the white Democratic brother sought to allure the love of the colored Democratic brethren; and their success is not wonderful, as the murdered negroes could not tell the depth of their affection for the Democrats who murdered them, and only some half-a-dozen driveling idiots, from some cause, have been induced to confess publicly that they were Democrats, instead of being ashamed of the very thought.

Now, the colored men owe everything to the Republican party. The Republican party gave the colored man his freedom, made him a citizen, and protected his rights by law. Until the disloyalty of the Democracy put the colored man's life in jeopardy if he exercised the franchise, he found in Republicans his true friends, who had labored for his education and prosperity; and up to the attempted seizure of the States of Louisiana, South Carolina, and Florida by Democratic intimidation and violence, he had voted the Republican ticket. Democrats cannot be friends of colored men; they believe in slavery, and wherever the freedom of the colored man

has been abridged it has been done by Democrats. Colored men fear that if Democrats had the power slavery would again be established; and it is this fear that causes them to cling to the Republican party, because it is the party of freedom.

During the recent canvass and election the colored women of South Carolina have come to the front and shown what woman can do. These were the wives, sisters, and mothers of colored voters, and their devotion to liberty and their race was grand and inspiring. They knew that there could be no honest colored Democrats. White Democrats had made the very word "Democrat" hated. They knew what their people had suffered from the day Wade Hampton became a candidate. They knew what the red-shirted ruffians had been doing and would do again, and, with grief and tears, they saw some of their husbands, sons, and brothers waver in their fidelity to the Republican cause. They understood the importance to them of Mr. Hayes becoming President. Their condition would improve if he were Chief Magistrate; but if Mr. Tilden went into the White House they would be dumb with sorrow and helpless in their misery. With so much at stake then, the women felt their power and did their duty. They suffered no colored voter within their reach to be controlled by Democrats and made to vote for Tilden and Wade Hampton. They picketed the roads to the polls. Often they saw a colored man in a wagon or other vehicle being driven by a Democrat to vote for Democrats. Not a wagon or buggy passed them for that purpose. The women seized the horses' heads, and commanded the intimidated negro to get out. It was useless for the infuriated Tildenite to draw his revolver and threaten to fire. The horse was taken out of the shafts, and the colored voter taken to the polls and made to vote the Republican ticket by his enthusiastic female escort.

South Carolina has given birth to a race of women who, if their skin be dark, have sharp wits and warm hearts. The danger in which they stood, from the possibility of the election of Tilden or Wade Hampton being accomplished by fraud, induced them

to perform deeds of bravery that made November 7, 1876, a red-letter day in their history; and the shame is that those women, capable of such bravery and determination, should be racked with the fear of being remanded to slavery if Tilden became President. But they had no fear of Wade Hampton or of the rifle clubs, although some of their husbands had, and their old slave-owners were not remarkable for their chivalric treatment of woman. Wade Hampton takes pride in saying that he spared the life of Governor Chamberlain. Hampton would have killed him long since had he dared. The life of Governor Chamberlain was saved by the devoted daring of the colored women of Columbia, and as long as he is there he is safe. A new light seems to have broken upon the mind of the Democracy of that city. The colored women have developed a power which holds the rebel ruffians in some measure in check. The safety of their Republican friends had to be assured, and it may be said that there is not a Republican, with Governor Chamberlain at their head, who has not sought earnestly to do them good and better the condition of the blacks. For that they are grateful, and have been able to do good work. It is not worth while to disclose the method of their obtaining such ascendancy. It is theirs, and they have used it well. And the success of the women is an example to the men to hold together—to organize for the purpose of securing their rights, and never under any circumstances be induced to vote for the Democracy, who only seek to use them for their own selfish ends.

THE official announcement from Chairman Hewitt that Mr. Tilden was elected was issued in the interest of John Morrissey and his brother gamblers. By the election of Mr. Hayes their Democratic friends had fairly lost their money. But the close vote and long suspense made the temptation too great. Instead of paying over the money they fall behind Mr. Hewitt, and as a generous compromise agree to call it a draw game. One thing is certain, if Mr. Tilden had obtained 185 votes in the electoral college Republican money would have long since been transferred to Democratic pockets. There is a science in all things, especially in gambling.

EXPLORATIONS MADE UNDER THE DIRECTION OF PROF.
F. V. HAYDEN IN 1876.

For reasons beyond the control of the geologist in charge, the various parties composing the United States Geological and Geographical Survey of the Territories did not commence their field-work until August. Owing to the evidences of hostility among the northern tribes of Indians, it was deemed most prudent to confine the labors of the survey to the completion of the Atlas of Colorado. Therefore the work of the season of 1876 was a continuation of the labors of the three preceding years, westward, finishing the entire mountainous portion of Colorado, with a belt of fifteen miles in width of northern New Mexico, and a belt twenty-five miles in breadth of eastern Utah. Six sheets of the Physical Atlas are now nearly ready to be issued from the press. Each sheet embraces an area of over 11,500 square miles, or a total of 70,000 square miles. The maps are constructed on a scale of four miles to one inch, with contours of two hundred feet, which will form the basis on which will be represented the geology, mines, grass, and timber lands, and all lands that can be rendered available for agriculture by irrigation. The areas of exploration the past season are located in the interior of the continent, far remote from settlements, and among the hostile bands of Ute Indians that attacked two of the parties the previous year.

The point of departure the past season was Cheyenne, Wyoming Territory. Two of the parties, with all their outfit, were transported by railroad to Rawlins Springs, and proceeded thence southward. The other two were sent by railroad from Cheyenne southward, one party to Trinidad and the other to Cañon City.

The primary triangulation party was placed in charge of A. D. Wilson, and took the field from Trinidad, the southern terminus of the Denver and Rio Grande railroad, August 18th, making the first station on Fisher's Peak. From this point the party marched by the valley of the Purga-

toire, crossed the Sangre de Cristo range by way of Costilla Pass, followed the west base of the range northward as far as Fort Garland, making a station on Culebra Peak.

About six miles north of Fort Garland is located one of the highest and most rugged mountain peaks in the west, called Blanca Peak, the principal summit of the Sierra Blanca group. On the morning of August 28th, the party, with a pack-mule to transport the large theodolite, followed up a long spur which juts out to the south. They found no difficulty in riding to timber line, which is here about 12,000 feet above sea level. At this point they were compelled to leave the animals, and, distributing the instruments among the different members of the party, proceeded on foot up the loose, rocky slope to the first outstanding point, from which a view could be obtained of the main peak of the range. Although this first point is only six hundred feet lower than the main summit, yet the most arduous portion of the task was to come. The main summit is about two miles north of the first point, in a straight line, and connected with it by a very sharp-toothed, zigzag ridge, over which it is most difficult to travel, on account of the very loose rocks and the constant fear of being precipitated down on either side several hundred feet into the amphitheatres below. After some two hours of this difficult climbing, they came to the base of the main point, which, though very steep, was soon ascended, and at 11 o'clock A. M. they found themselves on the very summit. From this point one of the most magnificent views in all Colorado was spread out before them. The greater portion of Colorado and New Mexico was embraced in this field of vision. This point is the highest in the Sierra Blanca group, and, so far as is known at the present time, is the highest in Colorado. The elevation of this point was determined by Mr. Wilson in the following manner: First, by a mean of

eight barometric readings, taken synchronously with those at Fort Garland, which gave a difference between the two points of 6,466 feet; secondly, by fore and back angles of elevation and depression, which gave a difference of 6,468 feet. The elevation at the fort was determined by a series of barometric readings, which, when compared with the Signal Service barometer at Colorado Springs, gave it an elevation of 7,997 feet, making the Blanca peak 14,464 feet above sea level. This peak may be regarded, therefore, as the highest, or at least next to the highest, yet known in the United States. A comparison with some of the first-class peaks in Colorado will show the relative height:

	<i>Feet.</i>
Uncompahgre Peak, above sea level.....	14,235
Blanca Peak, " "	14,464
Mt Harvard, " "	14,384
Gray's Peak, " "	14,341
Mt. Lincoln, " "	14,236
Mt. Wilson, " "	14,230
Long's Peak, " "	14,271
Pike's Peak, " "	14,110

The foregoing table will afford some conception of the difficulty encountered in determining the highest peak where there are so many that are nearly of the same elevation. About fifty peaks are found within the limits of Colorado that exceed 14,000 feet above the sea level.

From this point the party proceeded westward across the San Luis valley, and up the Rio Grande to its source, making two primary stations on the way, one near the summit district and the other on the Rio Grande pyramid. From the head of the Rio Grande the party crossed the continental divide, striking the Animas park, and thence proceeded by trail to Parrott City.

After making a station on La Plata Peak, the party marched northwest across the broken mesa country west of the Dolores, making three stations on the route to complete a small piece of topography that had been omitted the previous year, on account of the hostility of the Ute Indians. After making a primary station on the highest point of the Abajo mountains, the party turned eastward to Lone Cone, where another station was made. Thence crossing the Gunnison and Grand rivers, they proceeded to the great volcanic plateau at the

head of White river. The final station was made between the White and Yampah rivers, in the northwestern corner of Colorado. During this brief season Mr. Wilson finished about 1,000 square miles of topography, and made eleven primary geodetic stations, thus connecting together by a system of primary triangles the whole of southern and western Colorado.

In company with the triangulation party, Mr. Holmes made a hurried trip through Colorado, touching, also, portions of New Mexico and Utah. He was unable to pay much attention to detailed work, but had an excellent opportunity of taking a general view of the two great plain-belts that lie the one along the east, the other along the west base of the Rocky mountains. For nearly 2,000 miles' travel he had constantly in view the cretaceous and tertiary formations among which are involved some of the most interesting geological questions. He observed, among other things, the great persistency of the various groups of rocks throughout the east, west, and north, and especially in the west; that from northern New Mexico to southwest Wyoming, the various members of the cretaceous lie in almost unbroken belts.

Between the east and the west there is only one great incongruity. Along the east base of the mountains the upper cretaceous rocks, including Nos. 4 and 5, are almost wanting, consisting at most of a few hundred feet of shales and laminated sandstones. Along the west base this group becomes a prominent and important topographical, as well as geological feature. In the southwest, where it forms the "Mesa Verde" and the cap of the Dolores plateau, it comprises upward of 2,000 feet of coal-bearing strata, chiefly sandstone, while in the north it reaches a thickness of 3,500 feet, and forms the gigantic "hog-back" of the Grand River valley.

While in the southwest he visited the Sierra Abajo, a small group of mountains which lie in eastern Utah, and found, as he had previously surmised, that the structure was identical with that of the four other isolated groups that lie in the same region. A mass of trachyte has been forced up through fissures in the sedimentary rocks,

and now rests chiefly upon the sandstones and shales of the lower cretaceous. There is a considerable amount of arching of the sedimentary rocks, caused probably by the intrusion of wedge-like sheets of trachyte, while the broken edges of the beds are frequently but abruptly up, as if by the upward or lateral pressure of the rising mass. He was able to make many additional observations on the geology of the San Juan region, and secured much valuable material for the coloring of the final map.

He states that the northern limit of ancient cliff-builders in Colorado and eastern Utah is hardly above latitude $37^{\circ}45'$.

The Grand River division was directed by Henry Gannett, topographer, with Dr. A. C. Peale as geologist. James Stevenson, executive officer of the survey, accompanied this division, for the purpose of assisting in the management of the Indians, who last year prevented the completion of the work in their locality by their hostility.

The work assigned this division consisted in part of a small area, containing about 1,000 square miles, lying south of the Sierra la Sal. The greater portion of the work of this division lay north of the Grand river, limited on the north by the parallel of $39^{\circ}30'$, and included between the meridian of 108° and $109^{\circ}30'$.

This division took the field at Cañon City, Colorado, about the middle of August. The party traveled nearly west up the Arkansas river, over Marshall's Pass and down the Tomichi and Gunnison rivers to the Uncompahgra (Ute) Indian agency. Here they secured the services of several Indians as escort in the somewhat dangerous country which they were first to survey. This area, lying south of Sierra la Sal, was worked without difficulty. It is a broken plateau country, and presents many extremely curious pieces of topography. Eleven days were occupied in this work.

The Grand river, from the mouth of the Gunnison river to that of the Dolores, *i. e.*, for nearly a hundred miles, flows along the southern edge of a broad valley, much of the way being in a low cañon, 100 to 200 feet deep. The course of the river is first northwest for 25 miles; then, turning abruptly, it flows southwest, and then south,

for about 75 miles. This valley has an average width of 12 miles. It is limited on the north and west by the "Roan or Book Cliffs" and their foot-hills, which follow the general course of the river. These cliffs rise from the valley in a succession of steps to a height of about 4,000 feet above it, or 8,000 to 8,500 feet above the sea.

From its crest this plateau (for the Book Cliffs are but the southern escarpment of a plateau) slopes to the N. N. E. at an angle of not more than five degrees. It extends from the Wahsatch mountains, on the west, to the foot-hills of the Park range, on the east, and presents everywhere the same characteristics. The Green river crosses it, flowing in a direction exactly the reverse of the dip. It borders the Grand on the north for 100 miles, the crest forming the divide between the Grand and the White. On the south side of the crest are broken cliffs; on the north side, the branches of the White cañon immediately. This leaves the divide in many places very narrow, in some cases not more than 30 to 40 feet wide, with a vertical descent on the south toward the Grand river, and an extremely steep earth-slope (thirty-five degrees in many cases) at the heads of the streams flowing north to the White river. This crest, though not over 8,500 feet in height, is the highest land for a long distance in every direction.

After leaving the Uncompahgre agency, the party followed Gunnison's Salt Lake road to the Grand and down that river to the mouth of the Dolores, in latitude $38^{\circ}50'$, longitude $109^{\circ}17'$. At this point they turned northward, and went up to the crest of the Book plateau. They followed the crest to the eastward for upward of a hundred miles, or to longitude $108^{\circ}15'$; then descended to the Grand and followed it up to longitude $107^{\circ}35'$, and thence via the White River (Ute) Indian agency, to Rawlins, where they arrived on October 23d.

The whole area worked is about 3,500 square miles, in surveying which about 60 stations were made.

The geological work of this division, by Dr. Peale, connects directly with that done by him in 1874 and 1875. Sedimentary

formations prevail on both districts visited during the past season.

The country first examined lies between the San Miguel and Dolores rivers, extending northward and northwestward from Lone Cone mountain. The general character of this region is that of a plateau cut by deep gorges or cañons, some of which, especially toward the north, extend from the sandstones of the Dakota group to the top of the Red Beds. The depth of the cañon, however, is no indication of its importance as a stream-bed, for, excepting the main streams, they are dry the greater portion of the year. There are not great disturbances of the strata, what folds do occur being broad and comparatively gentle.

The San Miguel river, on leaving the San Juan mountains, flows toward the northwest, and, with its tributaries, cuts through the sandstones of the Dakota group, exposing the variegated beds lying beneath, that have generally been referred to the jurassic. About 25 or 30 miles north of Lone Cone, the river turns abruptly to the west, and flows west and southwest for about 15 miles, when it again turns and flows generally northwest, until it joins the Dolores. Between the San Miguel and Lone Cone the sandstones of the Dakota group, or No. 1 cretaceous, are nearly horizontal, forming a plateau which, on approaching the mountains, has a copping of cretaceous shales.

Beyond the bend, the San Miguel flows in a monoclinical valley, in which the cañon walls are of the same description as in the upper part of its course. As the mouth is approached, the Red Beds appear. Between this portion of the course of the San Miguel and the almost parallel course of the Dolores, which is in a similar monoclinical rift, there are two anticlinal and two synclinal valleys parallel to each other. They are all occupied by branches of the Dolores lower cretaceous, jurassic, and triassic strata outcrop, and present some interesting geological details, which will be fully considered in the report on the district. The Dolores river comes from a high plateau in a zigzag course, flowing sometimes with the strike, and sometimes with the dip of the strata. Its general

course on the western line is about north-west, from which it turns to the northward and westward, finally changing to northwest again, to its junction with the Grand. It is in cañon the greater part of its course.

In the region of country north of Grand river, the geological formations extend uninterruptedly from the Red Beds exposed on Grand river to the white tertiary cliffs forming the summit of the "Roan Mountains," or Book Cliffs. The Grand is generally in a cañon in the Red Beds; on the north side the No. 1 cretaceous sandstone forms a hog-back, sloping toward the cliffs. Between the crest of this hog-back and the cliffs there is a broad valley formed by the erosion of the soft cretaceous shales which extend to the base of the cliffs, and in some places form their lower portion. The cliffs are composed mainly of cretaceous beds, rising one above another in steps until an elevation of about 8,000 feet is reached. The summit is the edge of a plateau sloping to N. N. E. This plateau is cut by the drainage flowing into the White river from the south. These streams rarely cut through the tertiary series.

Coal of poor quality is found in the sandstones of the Dakota group, and also in the sandstones above the middle cretaceous beds. Wherever noticed it was in their seams, and of little economic importance.

The White River division was directed by G. B. Chittenden, as topographer, accompanied by F. M. Endlich, as geologist.

The district assigned to this party as their field for exploration during the season of 1876, commenced from the eastward at longitude $107^{\circ}30'$, joining on to the work previously done, and extended westward 30 miles into Utah Territory. Its southern boundary was N. latitude $39^{\circ}38'$, while the White river formed the northern limit. In order to complete to the greatest possible advantage in the short time that could be allowed, it was determined to make the White River agency headquarters, and in two trips from there complete the work. About 3,800 square miles comprised the area surveyed.

In working up the topography of this district the party spent 48 days of absolute

field work, made 41 main topographical stations and 16 auxiliary ones, and traveled within the district about 1,000 miles. The party ascertained the courses of all the main trails, the location and quality of almost all the water, which is scanty throughout, and can map with considerable accuracy the topographical forms and all the water-courses. The area is almost entirely devoid of topographical "points," and the topographer is obliged to depend to a considerable degree on those far to the north and south for the triangulation. The country has heretofore been almost entirely unexplored, and was described by the nearest settlers as a broken cañon country, extremely dry. It was marked on the maps as a high, undulating plateau, with freshwater lakes and timber. The party saw no lakes of more than 400 yards in diameter, and only two or three of these. The country is nearly all inhabitable, both winter and summer, and considerable portions of it valuable; and though three-quarters of it is within the Ute Indian reservation, the advantage of a more accurate knowledge of its character can readily be seen.

While working in the low, broken country of southwestern Colorado, last year, Mr. Chittenden made use of a light, portable plane-table, and found it of great value. It appeared at that time that its value was greatest in that class of country, and that in a low, rolling district, with few prominent points, or in a high mountain country, it would probably be of little or no use. Altitudes were determined by the mercurial barometer, with a base at the White River Indian agency, and checked by a continuous system of vertical angles. The altitude of the agency has been determined by a series of barometric observations extending over two years and a half, and referred to railroad levels, and can probably be depended on to within a few feet. The altitude of the agency being about 6,500 feet, and the altitudes in the district ranging from 5,000 to 8,000 feet, makes its location the best possible in height for a barometric survey of the region.

It is the intention of the survey, during the coming year, to publish some tabulated results of the barometric work in Colorado.

showing the system and its accuracy and reliability. This may be of use in future work, since the topography of the whole west must greatly depend on barometric determinations of altitude, and Colorado has furnished almost every possible phase of western topography.

The longest dimension of the workingly east and west, and the White and Grand rivers running in approximately parallel courses, the district stretched from the White river up over the divide between the Grand and White, and embraced the heads of the lateral drainage of the former river.

The general topography is a gentle rise from the White river toward the south, and a sudden breaking off when the divide is reached into rugged and often impassable cliffs, known on the maps as the Roan or Book mountains. The gentle plateau slope of the White river side is cut by almost numberless and often deep cañons, and in many cases the surface of the country has been eroded away, leaving broken and most picturesque forms, the lower benches generally covered with cedars and piñons, and the upper rich in grass.

There are four main streams draining into the White river within the limits of our work—a distance of something over 100 miles. The easternmost is a large running stream; the second, though tolerably good water may be found in pools in its bed, carries in the summer no running water for the greater part of its course; the third has for most of its length a trickling stream of the bitterest of alkali water, while the fourth and westernmost one is perfectly dry for some twenty-five miles from its mouth, and then forks, one branch containing pure, sweet water in pools, the other a running stream of bitter alkali. All of these streams have more or less good water at their heads. They traveled nearly the whole length of all these water-courses, but found good trails only in the two middle ones. Trails, which traverse the whole district in every possible direction, keep mostly on the summits of the ridges and plateaus, and by taking care not to cross the cañons, the country is very easily traveled through.

The country is almost entirely destitute

of timber, and has but little good water. It is, however, abundantly, richly supplied with grass, and, especially in the winter season, must be well stocked with game. It seems well adapted to its present use as an Indian reservation, and is likely to remain for years to come more valuable for them than it could be for settlement.

In the far western portion and outside the limits of the reservation, one large vein of asphaltum and several small veins were found, and also running springs of the same material, all of which, if once reached by railroads, will prove of great commercial value. These deposits have been spoken of before, but their location has not been accurately determined. The principal vein seen by this party is at present about one hundred miles from railroad communication, but less than half that distance from white settlement, and is likely in the present rapid growth of that country to be within a few years made available.

According to the report of F. M. Endlich, the geology of this district is very simple, though interesting. Inasmuch as but one divide of importance occurred within the district, the work was somewhat simplified. This was formed by the Book cliffs, between the drainages of the Grand and Green to the south and the White on the north. Both these rivers flow a little south of west, into Green river, which they join in Utah. From the junction of the Grand and Green downward, the river is called the Great Colorado. Orographically, the region surveyed is comparatively simple. The Book cliffs are the summit of a plateau about 8,000 feet above sea level, continuing unbroken over to the Green river. Toward the south these cliffs fall off very steeply, forming deep cañons that contain tributaries of the Grand river. On the north side, with the dip of the strata, the slope is more gentle, although, in consequence of erosion, numerous precipitous cliffs are found. Descending in that direction, the character of the country changes. Instead of an unbroken slope, we find that the plateau has been cut parallel by the White river drainage, and the long, characteristic mesas of that region testify to the action of erosion. Approaching the river, constantly descend-

ing with the slight dip of the strata, the bluffs become lower and lower. Though the creek-valleys are wide, and at certain seasons no doubt well watered, the vegetation is that of an arid country. Dwarf pines, piñons, and sagebrush abound, to the almost entire exclusion of other trees or grass. Traveling down White river, this character is again found to change. A new series of bluffs, occasioned by heavy, superincumbent strata, gives rise to the formation of deep cañons. For forty-five miles the party followed the cañon of the White, that, no doubt, is analogous to that of the Green, and probably closely resembles that of the Colorado in its detail features. Vertical walls inclose the narrow river-bottoms, and the slopes of the higher portions are ornamented by thousands of curiously-eroded rocks. "Monuments" of all kinds, and figures that can readily be compared to those of animated beings, enliven the scenery, which otherwise would be very monotonous; 2,000-3,000 feet may be stated as the height of the walls inclosing the White river.

Geologically speaking, the district was one of singular uniformity. Traveling westward, the older formations, reaching back as far as the triassic, were found. This was followed by cretaceous, which in turn was covered by tertiary. About three-quarters of the region surveyed was found to contain beds belonging to this period. Owing to the lithological character of the strata, water was a rare luxury in this region, and men and animals were frequently dependent upon looking for springs. Farther west still the Green river group sets in, forming those numerous cañons of which that of the White river is one.

Having completed their work by October 14th, the party marched eastward through Middle Park, and after twelve days of rain and snow, reached Boulder City, Colorado.

The field-work of the Yampah division during the past season was principally confined to a district of northeastern Colorado lying between the Yampah and White rivers, and between Green river and the subordinate range of mountains that lies west of and parallel with the Park range. The area is embraced between parallels

39° 30' and 40° 30', and meridian 107° 30' and 109° 30'.

The party consisted of Mr. G. R. Bechler, topographer, directing, accompanied by Dr. C. A. White, the well-known geologist. They proceeded southward from Rawlins Springs, a station on the Union Pacific railroad, August 6th, toward their field of labor. From Rawlins Springs to Snake river, a distance of eighty miles, table lands form the chief feature of the topography, while from Snake river to the Yampah river the surface is more undulating, and thickly covered with sage. Between the Yampah and White rivers, a distance of fifty miles, the country is mountainous, and on the divide between the Yampah and White rivers the elevation is 8,000-9,000 feet. Mr. Bechler, after having formed the geodetic connection with the work of previous years, concluded to finish the more mountainous portion of the area assigned to him, which began from a line of meridian with the White River agency, and extended westward to about 108° 10'. Here the party found water and grass in abundance, with one exception. The plateau country, however, was so destitute of water and so cut up with dry gorges or cañons, with scarcely any grass or timber of any kind, that traveling was rendered very difficult. The party therefore made White river its base of supply for water and grass, making side trips into the barren hilltops or plateaus in every direction.

From the Ute agency, which is located approximately in latitude 38° 58' and longitude 107° 48', the White river takes an almost due west course for 15 or 18 miles, most of the way through an open valley, with here and there narrow gorges. About 50 miles from the agency the river opens into a broad, barren valley, with only here and there scanty patches of vegetation. Soon after, the river enters a deep cañon, with vertical walls 1,000 feet or more in height, and continues to increase in depth until the river flows into the Colorado of the west.

The Yampah, or Bear river, deviates from a westerly course only for a few miles occasionally. Like White river, it flows through a plateau country, which rises

gently from the river, back for a distance of about eight miles. South of the river lie the Williams River mountains, which have a gradual slope to the north. Williams fork, flowing from a southeastern direction, joins the Yampah river west of the junction. The Yampah traverses the country more or less in a cañon, occasionally emerging into an open, grassy valley, then enters a deep cañon, cuts through the Yampah mountains, when it joins with the Snake river. The place of junction resembles a fine park, surrounded on all sides with eroded terraces and plateau spurs that rise by steps to the divide on either side. This park is about eight miles in length from east to west. After leaving this park the river enters a huge fissure in the mountains, where it remains, until completing its zigzag course, it joins the Green river in longitude 109° 40', and latitude 32°. After the junction with the Yampah, the Green river continues in a cañon for fourteen miles, where it passes through the picturesque palisades of Split mountain into an open, broad valley, longitude 109° 15', latitude 40° 28', from which point it takes a southwest direction through the Wamsitta valley, where it unites with the White river. Into both White and Yampah rivers numerous branches extend from either side, forming deep cañons the greater portion of their length. We may say, in brief, that the sides of the valleys expand and contract, at one time forming the beautiful, grassy valleys which in olden times were celebrated as the favorite wintering places for the trappers, or contracting so as to form narrow cañons or gorges with walls of varied height.

The walls of Yampah cañon average about 1,000 feet, while the mountains, receding back to the northward, attain an elevation of 4,200 feet, while the highest point of the plateau on the south side is 3,400 feet above the river level.

Of the plateaus between White and Yampah rivers, Yampah plateau is the largest, and occupies an area of 400 square miles. The surface of the summit is undulating, and on the south side it presents a steep face, several hundred feet in height, covered with debris, rendering it almost inaccessi-

ble. This plateau is covered with excellent grass and gives origin to numerous springs, all of which dry up within a short distance of their source.

As a whole, this district is very arid, barren, and almost destitute of tree vegetation.

The total number of stations made by Mr. Bechler in the district assigned to him was 40, and the entire area was about 3,000 square miles. Barometric observations were made whenever needed, and about 2,000 angles of elevation and depression with fore and back sights, so that material for obtaining correct altitudes is abundant.

The rocks of this district embrace all the sedimentary formations yet recognized by the investigators who have studied the region that lies between the Park Range and the great Salt Lake, namely, from the Uinta quartzite (which underlies the carboniferous) to the Brown's Park group, or latest tertiary inclusive. Not only has the geographical distribution of these formations been mapped, but all the displacements of the strata have been traced and delineated. The last-named investigations bring out some interesting and important facts in relation to the orographic geology of the region, especially as regards the eastern termination of the great Uinta uplift and the blending of its vanishing primary and accessory displacements with those of the north and south range above mentioned. Much information was also obtained concerning the distribution of the local drift of that region, the extent and geological date of outflow of trap, &c.

The brackish water-beds at the base of the tertiary series, containing the characteristic fossils, were discovered in the valley of the Yampah. They are thus shown to be exactly equivalent with those, now so well known, in the valley of Bitter creek, Wyoming Territory. These last-named localities were also visited at the close of the season's work, and from the strata of this horizon at Black Buttes station three new species of *Unio* were obtained, making six clearly distinct species in all that have been obtained, associated together in one stratum at that locality. They are all of either distinctively American types or closely related to species now

living in American fresh waters. They represent by their affinities the following living species: *Unio clavus*, Lamarek; *U. securis*, Lea; *U. gibbosus*, Barnes; *U. metaneorus*, Rafinesque; and *U. complanatus*, Solander. They are associated in the same stratum with species of the genera *Corbulo*, *Corbicula*, *Neritina*, *Viviparus*, &c., and which stratum alternates with layers containing *Ostrea* and *Anomia*.

The close affinity of these fossil *Unios* with species now living in the Mississippi river and its tributaries, seems plainly suggestive of the fact that they represent the ancestry of the living ones. An interesting series of facts has also been collected, showing that some of the so-called American types of *Unio* were introduced in what is now the great Rocky mountain region as early as the jurassic period, and that their differentiation had become great and clearly defined as early as late cretaceous and early tertiary times. Other observations suggest the probable lines of geographical distribution, during the late geological periods of their evolutionary descent, by one or more of which they have probably reached the Mississippi river system and culminated in the numerous and diverse forms that now exist there.

The work of the past season shows very clearly the harmonious relations of the various groups of strata over vast areas, that although there may be a thickening or a thinning out of beds at different points, they can all be correlated from the Missouri river to the Sierra Nevada basin. The fact also that there is no physical or paleontological break in these groups over large areas from the cretaceous to the middle tertiary, is fully established. The transition from marine to brackish water forms of life commences at the close of the cretaceous epoch, and without any line of separation that can yet be detected, continues on upward until only purely fresh-water forms are to be found. Dr. White, an eminent paleontologist and geologist, says that the line must be drawn somewhere between the cretaceous and tertiary epochs, but that it will be strictly arbitrary, as there is no well-marked physical break to the summit of the Bridger group.

CRIME IN LOUISIANA.

The debate which took place in the United States Senate, December 14, on the electoral vote of Louisiana, threw considerable light on one of the darkest chapters in the political history of the country. That our readers may have both sides of the question, we give the remarks of Senator Bayard, of Delaware, and the reply of Senator Sherman, of Ohio. In reply to Mr. Sherman, Mr. Bayard said, (referring to the report on the Southern outrages:)

The Senator will not understand me as denying the correctness of the report which he read. I only said that there is but a single copy which I know of in the Senate at the moment. I have been very desirous of reading this report. I expected it would, in the ordinary course of public printing, be laid on our tables to-day, but for some reason or other that is not the case. I wish it had been here before the refusal to let it go along with the other accompanying documents had been made.

But there is this reflection, sir, which has occurred to me: This voluminous statement, this collection of *ex parte* affidavits contains allegations of crimes which, to use the language of the honorable Senator from Ohio, shock the sense of the civilized world. I do not think that his phrase is at all too strong. I believe it is a terrible catalogue of lawlessness and crime sickening in its details and most saddening in its results. But does not that Senator see, and will not the country see, what has been the cause of such a condition of things, and what a mockery it is to term that a government of laws in which such a condition of affairs can become possible? Why, sir, what is the necessary, the logical result in any man's mind when such a document is presented as the history of the domestic and internal affairs of the State of Louisiana—murders alleged by the wholesale, whippings, scourgings, poisonings, all sorts of loathsome and detestable crimes, and this running through a period of nearly two years? What is the question that any man asks of himself when a crime has been committed? It is, how was it punished, or why has it not been punished? Where is the law? Who is the delinquent? "The judge is condemned when the guilty is absolved," is a maxim older than the language in which we speak.

Grant that every word of these affidavits is true, horribly and strictly true, of what a system are such acts the fruit? What Governor of a State, what member of

any State government in this Union except Louisiana, would have assisted in preparing a compilation which not only attests the wretchedness and misery of his people, but shows his own criminal negligence and failure in his duty to protect them? Who would array this record of their misfortune and his own delinquency for their condemnation and his own defense?

The fact is known to the honorable Senator from Ohio and to every man in the land that the most shocking and cruel murders or murderous assaults were charged under oath against men walking at large in the city of New Orleans, almost within hearing of the charges so made against them, and not an attempt was made to arrest them, not an exercise of authority to bring them to the bar of that law which they were alleged to have transgressed!

It is a strange commentary upon the whole of these proceedings before the New Orleans returning board that notwithstanding the numberless crimes sworn to in their presence no one of the State officials present, or the distinguished witnesses, including the Senator from Ohio, seems to have sought or suggested the arrest of any perpetrator.

Mr. President, can it be that misgoverning officials are to produce this state of affairs and then to take advantage of their own wrong by alleging the results here in order to di-franchise—whom? The victims of their own misgovernment and neglect of duty? Sir, it is preposterous; it is monstrous. The sense of justice of men and women all over this land and all over the civilized world will revolt at it, and will declare that the community which has been made the victim of such atrocious misgovernment, so betrayed by its rulers, and now stained and defiled by the calendar of their guilt, should not be further despoiled of its political liberties.

It is against a rule which has made such crimes possible that the people of Louisiana have in successive elections raised their voices, and on each occasion in vain. The existence of such crimes unpunished by law constitutes one of the evils and misfortunes against which they have faithfully tried by forms of election to relieve themselves, and at each attempt have been ruthlessly thrust down by the unlawful interposition of the executive power of the United States Government.

It seems to me that the effect of this document, properly considered, will be to

consign to everlasting shame and infamy those false men into whose treacherous hands the powers of control of that State have been delivered by fraud and by military force, and who never have performed the first duty of honest magistrates or honest government in suppressing crimes which they now parade as a justification for their further outrages upon the liberties of the unhappy people whom they hold in thrall.

I do not think that such an attempt as this, so short-sighted, has ever been presented before. It is not the truth, ghastly and terrible as it is, that I wish to shut out. Let it be fully known; but let it come accompanied by the knowledge that such are the results of congressional interference with local self-government in Louisiana; these are the results of executive military usurpation and of the throttling of the voice of a people who are crying in vain for mercy and for the attempt to liberate themselves from such a shocking condition of affairs. These are unanswerable arguments that truth and justice will deduce from the alleged facts against the continuation of such a state of affairs as culminates in the statement presented by the honorable Senator from Ohio to the Senate of events in the State of Louisiana for the last two years.

What Louisiana now is she has been made by carpet-bag legislation and government, sustained against the entreaties of her tax-paying citizens by the unwarranted intrusion of Federal military power. Shall she be still more cruelly punished because of her misfortunes?

I have said all and perhaps more than I intended to say in regard to this testimony, the source whence it came, the channel through which it was communicated to the Senate. I am far from denying both the power and the duty of the President of the United States to communicate to the Senate, and to both Houses indeed, all facts concerning the condition of the country which he thinks it advisable for them to know. It is in his discretion that they shall be communicated. Their weight is to be decided first by the Senate and House of Representatives; their weight is also to be considered by that honest and intelligent public opinion by which, in the end, all our acts must be judged, and by which men and parties in this country must eventually be sustained, or, being condemned, must fall.

WHY THE GUILTY ARE NOT PUNISHED.

Mr. SHERMAN. Mr. President, the Senator from Delaware [Mr. Bayard] has approached a portion of this Louisiana controversy which I think ought to be dis-

cussed when fairly presented. I do not know that I ought to discuss it now, although I am somewhat prepared to do so. When I went there I frankly confess that the trouble with me was, after ascertaining the facts, as to the remedy and as to the persons who ought to be chargeable with the grievous nature of things I found there. At first it was very natural to put the question put by the Senator from Delaware, why does not the Governor of the State of Louisiana put a stop to these outrages; why does not he, armed with executive power, with the courts mostly Republican, put a stop to this lawless murder and violence? That was a question that would be put by every honest man who viewed for the first time the actual spectacle of outrage and wrong among the people there, seeing men in the streets of New Orleans, as I did, who it was said were murderers, guilty of most foul murder. It seemed to me the first inquiry should be, why does not the Governor of the State, why do not the authorities of the State seize these men and in some way punish them according to law? Upon that point I am prepared to show statements made by the officers whose duty it is to execute the law, that they have done all that the law allows, all that the law would permit. I can say to you that this day there are in the very hotel where all our committees, both of the Senate and House, meet and where they will hold their sessions, men who are known to have human blood upon their hands and upon their souls, and they walk openly upon the streets, well dressed, like gentlemen. I only repeat what my friend from Delaware has said when I say the question presented itself, why are not those men arrested? I have noticed in the papers within a day or two that two or three men have been arrested, charged with murder, in New Orleans, and taken before the courts; but under the laws there offenders cannot be arrested outside of the parish in which the offense was committed, unless it is shown that criminal proceedings have been commenced in that parish and are pending in that parish. The proceedings to carry a man from New Orleans to the parishes for trial can only be in aid of the constitutional right of every man to be tried in the bailiwick or the place in which the offense was committed, and therefore it is not possible to make these arrests in the city of New Orleans. When you go to the parishes, there the evidence is conclusive that this intimidation has gone to the extent that it is not possible even to hold a court in some of the parishes.

Mr. EATON. Will my friend permit me to ask a question? I have not the law of Louisiana; but is it possible that by the law

of Louisiana a person charged with crime cannot be arrested anywhere within the limits of the State? Whether he can be tried out of the vicinity is another question. Is it so that by law a man cannot be arrested anywhere within the boundaries of the State?

Mr. SHERMAN. According to the law of Louisiana, as stated in the newspapers—I have not examined it—there must be a proceeding commenced in the nature of an affidavit, or there must be an indictment pending in the parish where it is alleged the crime was committed. I have not examined the law myself; but that is as it is stated in the newspapers.

Now let me go a little further. When this question was put directly to Governor Kellogg and he was told distinctly, "These parishes are presided over by Republican officers, and why are not evil-doers brought to justice; why are they not punished?" the answer was endeavored to be made by Governor Kellogg, and I have the materials here for a statement that would carry me far beyond what I intended in this debate, and what I will not embark upon; but it shows that this intimidation in certain portions of Louisiana has gone to such an extent as to overawe the courts, as to disperse the juries, and an actual case is shown here, by testimony of witnesses uncontradicted, that these regulators went inside of a courthouse in one of the parishes and there demanded that the jury should be discharged, and it was done, and every jurymen resigned his office. They then sought to break up the court by the intimidation of the judge. The judge maintained his seat there until finally they intimidated the sheriff and shot him, and he was driven off. Another sheriff was appointed, but he could not perform his duties in that parish, and there has been no court there since. Such is the condition of society in Louisiana, if we can believe the testimony of living witnesses, who have not been contradicted. The trouble is, I tell my friend from Delaware, that the white people, the lawless young men of the whites of the South, are determined that the negroes shall not exercise the rights that have been conferred upon them by the people of the United States and by the Constitution of the United States. That is the truth; and they have such power because five men can control a hundred negroes. The negroes, ignorant, uneducated, and accustomed to slavery, will flee from a shadow sometimes, and always from real danger; and a few white men can ride rough-shod over them. There is the trouble, that these white men are now engaged in a conspiracy against the Constitution of the United States, which gives to the negroes the right

of suffrage. They will not allow them to exercise the right except in subordination to their will; and in carrying out their purpose they will tread down your law, scatter your courts, shoot your sheriffs, and hold that whole community in absolute terror and intimidation. There is the answer. I have here now proclamations issued by Governor Kellogg, which I saw published in the daily newspapers, plenty of them, offering from one to five thousand dollars reward for the prosecution and conviction of open, known murderers. Here their names are given and the circumstances of the murders. And yet such is the intimidation that no man dare seek to recover that reward, because he knows very well that the making of an affidavit against a well-known citizen of a particular parish would be his own death. That is the explanation of it. Now, there are staring you in the face, in the newspapers published in New Orleans at this moment, advertisements offering high rewards for the detection and punishment of murderers; but they cannot be arrested, and no process can be filed against them by reason of this wholesale intimidation.

VIOLENCE CONFINED TO ONE PARTY.

Mr. WHYTE. Will the Senator from Ohio allow me to ask him a question?

Mr. SHERMAN. Yes, sir.

Mr. WHYTE. I ask the Senator if, after this statement of the turbulent and disorderly condition of Louisiana, he thinks it is proper that the electoral vote of that State should determine who should be President of the whole United States?

Mr. SHERMAN. This condition of intimidation and violence extends wholly to five parishes, and to some extent to seventeen parishes; and if the condition of affairs throughout Louisiana were in the state I have mentioned in all the parishes, I should say with the Senator "No;" but it is localized, and it is confined to one party, though it may be unpleasant for gentlemen to know it; this organized violence is confined to one party. The idea that these white men are afraid of the negroes is absurd. The negroes are a timid, yielding, fleeing race; and when these tumults break out into violence, it is not the white man that is killed except in an isolated case here and there; it is the negro that falls a victim. The purpose is, the object of this whole movement is, not to prevent the election of Hayes so much, or promote the election of Tilden so much as it is to prevent the negro from exercising his right to vote. And yet, strange as it may appear, the Southern States now enjoy thirty-five electoral votes based solely upon the negro vote, based solely upon the negroes living

in those Southern States. The white men vote those thirty-five electoral votes, denying to the negro the right to vote except here and there, in places where his vote will not do them any harm; but certainly in those States, where as is admitted by every man, such as Mississippi, and Louisiana, and South Carolina, and Florida, the natural inclinations of the majority would lead them to vote the Republican ticket, there the system of terrorism is organized and carried out for the purpose of preventing them from voting.

But, sir, I will not go further into this matter, although I do think that what the Senator from Delaware says is true, that while these things exist there are other questions as to the causes of them and as to the mode of punishing them which he and I have not yet discussed and which ought to be discussed before the American people. I only say now that if I were Governor of the State of Louisiana I would put an end to these things or perish in the attempt. I would not allow it to be said of me that I was Governor of a people where I could not punish murder, and rioting, and whipping, and violence.

THE WILL OF THE PEOPLE.

Mr. BAYARD. He is there against their will.

Mr. SHERMAN. That is the question. Is he there against their will? Whose will? The Southern people down there cannot embrace in their idea that the will of the negroes is to be considered; and there is the secret of the whole matter. Their will, the will of the white people is alone to be considered! If their theory is true, that only white people are to be consulted, then the government of Kellogg is a usurpation and a wrong; and that is their idea honestly entertained. I saw plenty of people, talked with them, honest men who really felt that this idea of negro suffrage and negro government was a humiliation and a shame to them, and that Kellogg was the representative of negro government. But, sir, the negro has the right to vote; he has the right to participate in the government. The laws give it, the Constitution gives it to him; and these men endeavoring to deprive this whole class of people in Louisiana of their right originate and organize all this trouble. If the white people alone were to vote in Louisiana, the Kellogg government has no foundation; and it is because the Kellogg government seeks to protect all these people to the extent of its feeble ability in the exercise of the elective franchise that this whole trouble is brought upon us. There is the key of the whole difficulty. It we ought to abandon as an impossibility the idea of carrying into exe-

cution in the Southern States the doctrine of negro suffrage; if that, gentlemen, is the ultimatum; if you say that you will not allow these people to vote where their votes would count against you for President; if that is what you mean, then you ought, in all fairness and honor, to surrender that political power which is based upon the negro; and yet that is the sober fact that, in those States where the negro vote could prevail or be made to prevail with the aid of comparatively few white men—as a matter of course we cannot get these States without the aid of the negro vote—the trouble comes from the effort to deprive the negro of his vote.

I do not think any man who takes an intelligent view of the actual condition of Louisiana can fail to admit in the outset that, by reason of the unhappy divisions there, as a rule the white people vote the Democratic ticket and the negroes the Republican ticket. It is estimated, according to the best statements there, and I heard both sides, that there are about 7,000 white Republicans and there may be possibly half that number of negroes who are Democrats by association with their old masters and from ties of affection and who may have voted the Democratic ticket voluntarily; but I think that general statement of it is unfortunately true. The mass of the negroes, the great body, nine-tenths of them and more than that proportion, instinctively and naturally vote the Republican ticket, and there are good reasons for it.

There is another unfortunate thing. I do not want to arraign the people of Louisiana; but here is their own registration and it shows this unfortunate condition of affairs, which may probably explain something of the charges of perjury. It happens that there are in the state of Louisiana 384,027 negroes who can neither read nor write. It happens that there are 150,759 white people who cannot read or write. That seems to be most appalling, that only one-tenth of the negroes of Louisiana can read or write, and only a little more than one-half of the whites can read and write! That is rather a staggering fact to a person accustomed to a community where everybody can read and write; and I have no doubt that the condition of society in Louisiana is largely to be attributed to the sad fact that education has not yet grown into life upon the population there, either white or black.

These are the sober facts; you have got to deal with these facts; and in dealing with them you will see that what I state to the Senator from Delaware is true, that while in the first instance the Governor and the officers of the State ought to be called upon to explain these outrages, and the failure

to punish the perpetrators, yet that failure has been sufficiently accounted for, not so fully as I would like to have it done; but I think I could show the Senator himself by the official papers I have, if I had the time to go into them at length, a pretty full explanation of the inability of the Governor, by reason of the state of society in certain parishes there, to enforce the law and punish offenders.

WHO COMMITS THESE CRIMES?

Mr. President, the honorable Senator from Delaware seems anxious to force on this collateral question a discussion of the responsibility for the crimes committed in Louisiana. I am glad we have advanced one step in this debate and that these crimes are no longer denied. The honorable Senator from Delaware has stated the nature and character of these offenses as strongly as I could. Indeed, when I made the statement in my way, no stronger than he did in his, I was generally supposed to be unduly heated and excited. Now we have in the outset an admission that there is a state of society in Louisiana which is shocking to humanity and disgraceful to the civilization of our age, a state of society involving murder and all the crimes prohibited by any law, and that without the possibility of punishment. Here we have the sad fact acknowledged. Who commits these crimes? We shall come to the question of punishment hereafter, but who commits these crimes; in whose name are they committed; for what purpose are they committed? It will be impossible for gentlemen to go back of the sober fact that these crimes are committed for political purposes. Notwithstanding the half shade of expression of my honorable friend from Kentucky [Mr. STEVENSON] who went down to New Orleans, he cannot escape the fact that they are for political purposes; that they are mainly committed by white men to obtain political power; and that the reason why they cannot be punished is because they are above the law.

These are sober facts; and here I will cite a single instance, although I shall not go further into the testimony to show them. I have the report here of a judge where there was an effort made to bring to punishment the murderers of a man by the name of Gair, a most atrocious murder, which was committed, I believe, in East Feliciana Parish some time last fall.

Mr. STEVENSON. Will the Senator from Ohio permit me to ask him if the murder of Gair was in any sense political?

Mr. SHERMAN. The testimony shows it. The statement of the Gair case would be an episode in itself; it would be a tragic episode with the circumstances which led

to the murder of Gair and all the surroundings. It is one of the strangest stories that I ever read in my life. I will not stop now to read it, because I wish Senators to read it in the language of the judge. At any rate an attempt was made to punish those who had murdered Gair and who had murdered a woman also, and here is the statement. I read from the report:

The regular term of court commenced a few weeks afterward. The State authorities determined that, if possible, these crimes should be thoroughly investigated. What followed is stated in the official report of the judge, which is here subjoined:

NEW ORLEANS, October 15, 1875.

Hon. C. C. Antoine,
Acting Governor of the State of Louisiana.

Sir: Agreeably to your request by telegraph I have the honor to submit the following statement connected with the opening and adjournment of the fifth judicial district court in and for the parish of East Feliciana.

The court opened at ten a. m., October 7, the sheriff, Henry Smith, in attendance. The grand jury was impeached, charged by the court, and returned to their room with the district attorney, A. E. Read, Esq. The civil and criminal dockets were then called and cases assigned.

An appeal case from the parish court was taken up, and the trial proceeding, when the sheriff came into the court-room and in a loud voice, attracting the attention of the court, seemed to be wrangling with some person in the passage leading to the court-room. I directed him to keep order, as the controversy in which he was engaged interrupted the proceedings of the court. He came within the bar and sat down. I then saw several persons in the doorway smoking, with their hats on. I directed the sheriff to request them to take seats within the court-room or to cease smoking and take their hats off. They withdrew from the door into the passage, beyond the view of the court, the sheriff returning within the bar.

The case on trial proceeded, and hearing a disturbance in the passage-way, I called D. C. Hardee, Esq., to the bench, and said to him, we must have order or the court cannot go on. He replied that from the appearance of the crowd he saw about the court-house he thought it doubtful whether Smith could keep order; that they were persons not to be trifled with. I rejoined, you know better whether he can control them or not. He then asked me if I was not aware of the opposition to Henry Smith. I replied that I had seen reports in the newspapers, but could not believe they were true. While this conversation was going on, the sheriff left the court-room without my knowledge, and, as I was afterward informed and believe, while near the foot of the stairs was set upon by the same persons with whom he was previously disputing. He then ran into the court-house yard, and while there was fired upon by the crowd. I should think twenty pistol shots were fired. I heard some one remark in the court-room that they were shooting at Smith. Including the members of the bar, about twenty persons were then in the court-room. Looking into the court-yard, I saw Henry Smith limping, and an excited crowd talking to him. A consultation took place between several members of the bar, citizens, and myself, some advised that the court adjourn *sine die*, some an adjournment for a few days, others stating that with Smith as sheriff it was impossible for the court to proceed. One gentleman gave as a reason why the court should adjourn *sine die*, that if word should go into the country that Smith had been shot, both white and colored would flock into town, and a conflict would be inevitable; word of adjournment would stop them.

Then he goes on and gave the reason for an adjournment. The result is that there

has been no court held there; the judge cannot hold his court.

STATEMENT OF JOHN S. DULA.

I am parish judge of my parish, (parish of West Feliciana). For the last year there has been an organized band of white Democrats, styling themselves bull-dozers and regulators, who patrolled the entire, and, by threats, acts of violence, and burning houses, have intimidated the colored people to such an extent that few have the hardihood to openly declare themselves Republicans. These parties I have seen, and speak of what I know. About a year ago, about the 25th of October, 1875, about three hundred regulators, all armed with shot-guns, rifles, and pistols, who I was notified came to demand my resignation as parish judge. About eight o'clock I shut my store and went to the residence of a friend, and shortly afterward they broke into my store, gutted it, and left with a colored man, an acquaintance of mine, a resignation to the Governor of my office of judge, and left word that unless I resigned it by the next day at four o'clock they would take my life. I sent them a refusal, and took boat for the city of New Orleans, where I remained for three months. I then returned, and after heard it remarked that the damned radical officials must leave the parish if they value their lives. For the three months just before the election the parish has been patrolled by the bull-dozers. About the 1st of May last—

Here is the particular case to which I wish to call attention—

About the 1st of May, 1876, about fifty or sixty armed Democrats rushed into the court-house where I was holding court, and the Republican members of the police jury were summoned and commanded to resign at once on pain of death, which they did. There has been several murders within the last three months, one of whom, Isaac Mitchell, a prominent Republican, but who was an inoffensive man, and who held no official position, who owned his own farm and worked it, and who attended to his own business, but who refused openly to join the Democratic clubs and rebuked colored men who did so.

He afterward goes on to state the murder of Mitchell. Here was a case of a parish judge against whom there was no hostility and who, while pursuing his ordinary duties, was driven from his court. I do not want to go into details. We have got down now to the main facts, and I wish to impress them upon the Senate and the country. First, the degree of crime, offense, and wrong in Louisiana is substantially admitted. That is what is meant by the legal phrase "intimidation." Next, the question is, who is responsible? That is the question put us by the Senator from Delaware. I say distinctly that it is the unlawful conduct of white Democratic clubs. There may be here and there instances of violence and murder on other accounts; there may have been murder for other reasons; but had it not been for the over-riding power of these Democratic clubs, who go armed by night and by day, driving unoffending negroes from their cabins, there would soon be peace there, because there would be an instinct of self-preservation which would make the property-holders rise and put down these disturbances; but when this organization is for political ends

and for political purposes, it overawes the whole white population, and the negro population is powerless. *These crimes are committed for political purposes. That is my answer.*

WHAT IS THE REMEDY?

What is the remedy? There is one remedy, it may be; that is the remedy of the Senator from Delaware. He wants these negroes to knuckle down, to surrender their elective franchise, because that is the effect of it.

I say the result of the remedy proposed by the Senator from Delaware would be the practical subjection of the negroes to the white race, and I am going on to explain it. His idea is that white men are better, stronger, and have a higher intelligence. They will exercise their due influence undoubtedly. The white men of the South will naturally in the course of time rule in the Southern States, perhaps in all of them; but what I object to is that they should gain that rule by intimidation and lawless acts. If they can win the negroes to their side, even to vote the Democratic ticket, let them do it; it is their right. If their intelligence and wealth enable them to do it, we cannot object; but that is not the cause of what we witness in Louisiana.

There are three modes of dealing with this question, and the time is coming when we have got to look to it, either during this or the next Administration. You may allow these lawless acts of violence to have their natural effect of overawing and intimidating the black race, and thus give to the slave-holders, or those who were slave-holders, increased political power to be exercised by means of these freedmen and through the votes of these freedmen. If so, you will have peace. Let the black men knuckle down and vote the Democratic ticket, and you will have peace; but is that the kind of peace we want in this country? Suppose that the natives of this country, who are in the majority, should say to the naturalized citizen, "You have no right to vote in this country; you have no right to rule; you were not born here; we will ride over you rough-shod;" would you like to see the natives successful upon such a proposition? No; the instincts of humanity would be at once for natives as well as naturalized citizens to resist such an attempt. That is the condition of society in the South, and especially in Louisiana, and I only wish to deal with Louisiana now. The leaders there are organized with the intention of preventing the negroes from exercising the elective franchise. They intend to do it if possible by coaxing, if necessary by throwing them out of work, and, if that is not effective, by whipping an occasional negro,

driving them out from their cabins, and if the worst comes, murder. There is the rule. Is it wise, is it good for the people of this country that this policy should prevail? Down there they call it "the Mississippi policy." They all speak of it as "the Mississippi policy." It came originally, I believe, from Georgia. It is said to have come from Georgia; but, wherever it came from, the effect has been to overawe and keep down the negro vote, and that is the purpose in Louisiana. Now, gentlemen, I say it is not best for the people of this country, it is not best for the Senate, it is not best for any State that this should be the case. If you can win the votes of the negroes, whom you must in the main employ, whose labor is the foundation of your wealth and prosperity, the ancestors of whom lived for generations as your slaves—if you can win them by kindness, God speed, win them; but when you overawe them as you have done in the Southern States, especially in Louisiana, when you seek by violence to intimidate and control them, then you have prescribed a remedy which strikes at the very foundation of our Government. It is a remedy worse than the disease, and I tell you that if it succeeds in this instance in electing a President of the United States, these same scenes of violence now practiced upon the poor negroes, the same degree of intimidation which now holds them as slaves, will extend gradually all over the United States of America and our Government will be at an end. If you once show a successful attempt at this policy, a successful enforcement of it by the election of a President of the United States through force and violence, through intimidation and threats, you destroy the fair fabric of our Government founded upon the blood and achievements of our ancestors, and there is an end of republican government. That is "the Mississippi policy," and that policy has been in force in Louisiana. I do not care who he is that has been there, he cannot deny it.

Mr. President, that is the condition of affairs there. I say no one will fairly look at the condition of affairs in Louisiana who will not admit the facts. We hear talk about the remedy. I say the remedy which has been proposed to cure the evils of the State government of Louisiana (I may admit that they are many) is worse than the disease. If these white people had come forward in the exercise of the elective franchise, and sought to gain the favor of the blacks by quiet means, and they had divided off between the Republicans and the Democrats, made new issues, any issues whatever, and gained political favor, I should have no objection; but the means

they have resorted to is like the gangrene, which, spreading inch by inch, will destroy the whole body politic. Therefore we dare not, if we would, and we would not if we could, allow this system of intimidation to prevail. It is not best for us nor for those who are to come after us that the example should now be set, in this centennial year of 1876, of large communities being overawed by intimidation, and their votes so cast as to control the election of a President of the United States. Whether Hayes or Tilden is elected is comparatively of little importance. Neither of them can so guide this great country of ours as to turn it from its course. Neither of them as President could exercise such influence as greatly to injure our country; but the result of an election by violence, controlled and overawed by fear, even upon the humblest and weakest of our citizens, is far worse than the election of Mr. Tilden, or the restoration of the Democratic party to power can be.

There are other remedies, but I do not like to discuss them. If you choose to withdraw and to turn over to the white people there the utter control of this matter, and leave the blacks of Louisiana in the same condition that the blacks in Mississippi are, there is the success of the Democratic policy. On the other hand, there is another way. We can teach the negroes that they have an inherent right of self-defense. By the law of most of the Southern States—I am informed by the Senator from Tennessee that by the law of Tennessee it is so—any man, black or white, can shoot down these lawless bands that are parading around his home at night; it is justifiable homicide. I am told this is the law in several of the Southern States. Such a thing could not exist in Ohio. If a band of Republicans in the strongest Republican community anywhere in Ohio should go around and molest or overawe the weakest Democrat in the land the whole country would be in arms. It could not occur in Ohio; it should not occur in Louisiana. The law of self-defense can correct it. The negro might soon be taught, especially in those parishes where there are three black men to one white man, that he has the right of self-defense; but who wishes to even suggest or intimate or anticipate such horrors? Who wishes to see a war of races? Yet rather than see what has occurred in Louisiana these men will learn, not from you and me, not from our teachings, but by the instinct planted by Almighty God, that they can resist these outrages; that the negro can defend his cabin, his wife, his children from these outrages; and that he will be justified by the laws of God and

man in repelling these assaults, whether they come by day or by night. I do not want to see this done. I fear it; and yet it will come, whatever policy may direct in this country, unless you give to the negroes the rights which are secured to them by the Constitution of the United States.

Another remedy is beyond our reach. A great many cautious and prudent men have feared that they went too far in the passage of the fifteenth amendment; that while this was a barren gift to the negro it has been a bounteous gift to the men who waged war against us; that we have given them thirty-five electoral votes upon condition that the negro should have suffrage, and now they keep the votes, and deny the suffrage. That cannot last long. You may win one Presidential election upon it, you cannot go further. The instinct of justice, which is implanted deeper than party lines, deeper than sectional lines, will correct this evil before many years roll around, not by revolution, not by bloodshed, but by the strong arm of the popular will, on account of this glaring injustice, made prominent in this Presidential canvass, that the men who sought to overthrow the Government, having gained political power, then refuse to give the negroes, upon whose heads and shoulders this power was granted, for whom it was granted, the right to vote, but intimidate them, whip them, kill them occasionally, and terrorize them. It will not do.

THE KIND OF POLICY NEEDED.

These remedies I did not wish to discuss. My friend from Delaware has drawn me into it, and I say now again that the Democratic policy does only magnify the evils under which we labor. Kellogg may not have been a good governor, but I do not admit that. He certainly has been unable to put down this violence and wrong. He gives the best reasons he can for his failure to do it, and I think they are good reasons. I do not think he ought to be condemned in advance. The Senator from Delaware himself said in regard to Governor Grover that we ought not to too hastily denounce or criticise the action of so high an officer of a State government; but no such charity has been extended to Kellogg, although he was once a member of this body. His disability there with the whites against him has never been considered with charity. I am not here as his advocate or defender. I am afraid that I ought not myself to be trusted with the power of a governor of the State of Louisiana, for there would be something either cured or made worse in that community.

Sir, the real trouble in this whole matter

is the political attempt made in the midst of a Presidential election to organize a party upon the color line to ride rough-shod over those who naturally vote the Republican ticket, so organized as to be confined to but a few Republican parishes, and with the design and purpose of making a man President of the United States who is not elected by the free choice of the American people. This ought not to be, and I believe the sober sense, the candid judgment, the quiet consideration of the people of the United States will not have it so. Not that I anticipate war, or trouble, or bloodshed, but I do believe that the mind of the people of the United States, North and South, is daily going forward to the determination that this thing ought not to be allowed to be consummated by the triumph of the Democratic rifle clubs in the State of Louisiana. The remedy will come of itself. All that is needed is a wise, considerate, and just rule in these Southern States. I see no difficulty outside of this. There are no questions arising in the Southern States growing out of the late war. There is no reason why the Southern States and the Northern States should not now be organized upon a basis entirely distinct from the questions of the war, from the questions of slavery, but the only solid basis is equal and impartial suffrage freely yielded, with protection to all, white and black, in their rights and punishment against offenders; and unless you yield that you will be in constant turmoil and trouble; the South cannot revive her drooping industries, she cannot recover her losses by the war. Men who would naturally go to her and mingle their blood with hers and add their labor to hers will never go there with these scenes of outrage continually ding-donged upon their minds and proven by living witnesses. You cannot have that mingling of blood between the North and the South necessary to make a great and free people; you cannot make it homogeneous under such a condition of things. There is nothing in the condition of society in the South except this one question of race that ought to keep us asunder a moment. Take away the prejudices and jealousies that grow out of this race question, and we would mingle, and mingle cheerfully and kindly and happily together. All the political questions of the future that are likely to arise will arise upon other issues than this question if only the South will stop this intimidation, allow these negroes their rights, win them by kindness if they will, and secure them in their rights and protect them against lawless violence. I do believe that under a wise policy, with an administration that will be firm in maintaining the rights of the blacks as well as be generous to the whites, all the clouds

that are now lowering upon our house will pass away and be

"In the deep bosom of the ocean buried."

HOW TO ABOLISH RUFFIANISM.

Mr. MORTON. Mr. President, I simply want to congratulate the cause of humanity and of justice upon the evidence of progress we have had here to-day, and that is that the existence of these horrible crimes in the Southern States is no longer denied. The general system of denial which has prevailed for years seems to have been broken down. The character of these enormities has not been denied in the debate to-day; and, according to my recollection, it is the first debate of this kind that I have witnessed on the floor of the Senate where the existence of these crimes has not been denied.

The Senator from Delaware, however, asked why they are not punished. He seemed to put that question as if the fact that they were not punished was a justification for the crimes. "Why," said he, "are they not punished?" Mr. President, the answer to that question is on the surface. They are not punished because that intimidation which prevails in the South enters the court of justice, enters the jury box, enters the witness box, and prevails upon the bench with the judge. You can never have justice in any country where assassination awaits the juror and awaits the witness. The same force and violence that drive men from the polls prevent thousands of men from exercising their right, or compel them to vote a ticket that they abhor; that same force and violence intimidate the judge on the bench, and the juror in the box, and the witness upon the stand.

The Senator asked this question, how can ruffianism be abolished. I will tell him one long step toward abolishing the reign of ruffianism. It is when a great party shall no longer ignore its existence, when a great party shall no longer excuse it, when a great party shall no longer find justification for it. When its existence is admitted, and when you go one step further and denounce it, you have taken a long step toward abolishing the reign of ruffianism. We have witnessed one step upon this floor, and a long step, and that is the admission of its existence. We have seen that a Democratic committee that went to Louisiana for election purposes and came back with a plea, and a pettifogging plea, for their cause, were still compelled to admit in that plea the existence of these enormous crimes. One long step has been taken, I hope the next will speedily follow, and that is the denuncia-

tion of the terrible crimes that are admitted to exist.

Mr. President, a friend has put into my hands the report of the Mississippi investigation of this year, and as one of the ways in which justice is not administered, and to show why these crimes are not punished, I will ask the Clerk to read a letter from William F. Tucker, of Okolona, to the foreman of the grand jury in the district court of the United States, as a reason why bills were not reported and criminals were not punished.

Mr. STEVENSON. The volume and page?

Mr. MORTON. Volume 2 of the Mississippi investigation, page 151 of the documentary evidence.

The Chief Clerk read as follows:

OKOLOSA, MISSISSIPPI, June 12, 1876.

DEAR BILL: It is reported here that true bills are to be found against all the country around Okolona for the raid on the negro Baptist church and the charge of Stovall's brigade upon the viewless air from Egypt on day of election. If this be true, you ought to know; and I presume you do know that you, and you alone, will be held responsible for the action of the grand jury. You can very well imagine how pleasant a life you will lead among, say, two hundred men, who would all charge you with organizing a prosecution against them. You know I have always been your personal friend, and it is as a friend that I write to say if you are not already committed to that line of policy, don't allow the bills to be found. I think you know me well enough to give me credit for sincerity when I make such a suggestion. I have abundant reasons for making it.

All well.

Yours,

W. F. TUCKER.

Mr. MORTON. There is the threat transmitted by a man who is said to be respectable and a prominent lawyer, to the foreman of the grand jury. I will now ask the Secretary to read the return made by the foreman of the grand jury to the judge of the court on page 150.

The Chief Clerk read as follows:

UNITED STATES GRAND-JURY ROOM,
NORTHERN DISTRICT OF MISSISSIPPI,
OXFORD, July 8, 1876.

Hon. R. A. HILL, Judge Presiding:

The United States grand jury for the northern district of Mississippi, at Oxford, June term, 1876, beg leave to report that they have examined two hundred and eighty-one witnesses, and found ninety true bills. A large majority of these bills were for violations of the revenue laws.

Although we have had a protracted session, we have only made a partial and cursory examination of the innumerable cases of violations of the election laws that have come to our knowledge. We regret to report that, from the examination had, we must say that the fraud, intimidation, and violence perpetrated at the late election is without a parallel in the annals of history, and that time would fail us to take the testimony that could be easily introduced demonstrating the fact that there is sufficient ground for the finding of thousands of indictments against persons who are grossly guilty of the above-mentioned violation of the election laws.

From the facts elicited during this grand inquest, and from our own knowledge of the reign of terror that was inaugurated during the late election campaign, we can only recommend to the citizens of Mississippi to make an earnest appeal to the

strong arm of the United States Government to give them that protection that is guaranteed to every American citizen; that is, protection in freedom of speech, in their person and property, and the right of suffrage.

We do assert that all these rights were openly violated and trampled in the dust during the late election, and that there is no redress for these grievances under the present State government; and unless the United States Government enforces that shield of protection that is guaranteed by the Constitution to every American citizen, however humble and obscure, then may the citizens of Mississippi exclaim, "Farewell to liberty! farewell to the freedom of the ballot-box!"

In conclusion, we would tender our thanks to his honor Judge Hill for his clear and concise charge made to us on our organization as a grand jury, and to the district attorney, Judge T. Walter, and his able assistant, B. W. Lee, for their able and impartial counsel during our sittings, and also to Colonel J. H. Pierce, marshal, and his indefatigable deputies, for their promptness in the discharge of their duties.

Respectfully submitted and adopted by the grand jury this 8th day of July, A. D. 1876.

WILLIAM D. FRAZIE, Foreman.
W. H. DODSON, Clerk.

The above is a true copy of the report of the United States grand jury at the June term, 1876.

B. W. LEE,
Assistant United States Attorney.

Mr. MORTON. Mr. President, so much on the question why these crimes are not punished. Since these crimes are now admitted, the next proper and natural step is to denounce them. Democratic committees go South; they come back with long pettifogging briefs, which they call addresses, and publish them to the country; they admit the existence of these crimes, but have few words of condemnation, expending columns in the discussion of small questions of law, and overlooking the main great issue. This last campaign was a campaign of intimidation everywhere. My friend from Illinois [Mr. Logan] has put into my hand an extract from a Democratic paper in Atlanta, published just before the election, which fairly describes thousands published through the South during the recent campaign. I will ask to have it read.

The Chief Clerk read as follows:

[From the Atlanta (Georgia) Commonwealth, November 7.]

If there is any man in Fulton county, with a white skin, who is so lost to self-respect as to vote for a radical on next Tuesday, the community have an interest in knowing who he is, and we call on the Democratic Executive Committee to see to it that the names of all such are enrolled for publication within three days after election.

Neither money nor social consideration will deter the Commonwealth from publishing the roll of infamy after the election is over. The white men of Fulton who vote the radical ticket on Tuesday are enemies to the people of Georgia, and their names shall be blazoned, that all Georgians may know and shun them. This supreme struggle must extend to business and social relations, and he who is base enough to vote for our continued enslavement and degradation must be made to feel that he has committed a crime against his color, his family, and the best interest of the whole people.

Mr. MORTON. That editorial, of course, requires no explanation. That is one form of intimidation; but it is not that form of intimidation of which so much complaint has been made in Louisiana, South Carolina, Florida, and other States. It is that other form, which comes with violence, with murder, with every kind of torture, and of outrage. Whenever that shall cease to exist, or whenever all parties in the North shall come to condemn it, then we shall have peace in this country; but so long as there is a great party that ignore it, or who find excuses for it, or half way or full justification for it, so long it may be expected to exist.

NO TERMS WITH TRAITORS.—And now, as the last refuge of baffled scoundrelism, comes a talk about compromise! The interposition of Providence is profanely invoked in behalf of a perjurer, who, having tried to buy the Presidency and failed, and having invoked revolutionary agencies with no other effect than to arouse the indignant hostility of conservative sentiment, now proposes to negotiate terms for the acquisition of Executive authority. Under whatever covering this suggestion may be made—whether it emanates from a gathering of conspirators in Gramercy Park or a "light supper" party in Madison avenue—it is unworthy of consideration for an instant. There can be no bargaining, no compromise, where truth and principle are concerned. Had Mr. Tilden been elected, no Republican complaint would have been heard. His inauguration would have come as a matter of course, and the Republicans would have trusted to time for their vindication. A different result has been brought about. Mr. Tilden has been defeated; and the Republican majority will make no terms with traitors, or with weak and timid souls who imagine that they are serving the country by surrendering to the pretensions of its treacherous enemies.—*N. Y. Times*, Dec. 17.

THE Northern bull-dozers are busy trying to divide public sentiment on the legality of the election of Mr. Hayes. They were defeated in their efforts to elect Mr. Tilden, and now hope to make the administration of President Hayes unpopular by creating doubts in the public mind.

THE DEFEATED DEMOCRACY.

EXTRAORDINARY DEMOCRATIC PROCEEDINGS IN NEW HAMPSHIRE—TILDEN AND HENDRICKS SHALL BE "INSTALLED"—SEASONABLE SUGGESTIONS BY HON. H. W. BLAIR.

WASHINGTON, D. C.,
December 17, 1876.

Hon. WILLIAM BUTTERFIELD,
Secretary of the Democratic State Committee, Concord, New Hampshire.

MY DEAR SIR: Yours of the 15th inst. is just received, and in it you say that at a meeting of the State Committee and others, representative men of the Democratic party, held on the 13th inst., the inclosed resolutions were unanimously adopted, and that you were directed to send a copy of them to me. The following are the resolutions which I find inclosed:

"Whereas Samuel J. Tilden and Thomas A. Hendricks have been duly elected President and Vice President of the United States for the term of four years commencing on the 4th of March next, and whereas the evidence of such election is so plain and conclusive that no intelligent person of any political party doubts it, and whereas bad men have conspired against their inauguration, and are seeking to prevent it by fraud, usurpation, and violence, and are thereby threatening to overthrow the Republic and subvert the liberties of the people: Now, therefore—

"*Resolved*, That all good citizens, without distinction of party, should unite in the determination that Messrs. Tilden and Hendricks shall be installed into the offices to which they have been chosen.

"*Resolved*, That in the present crisis the Democracy of New Hampshire have entire confidence that their national Representatives and popular leaders will exhibit calm courage, firm purpose, and resolute action, and we pledge them our firm support in all efforts to maintain the rights of the people, to vindicate the supremacy of the ballot-box, and to sustain the vital principles of free government against all attacks, whenever, wherever, however, or by whomsoever made."

As this is an authoritative utterance of a great political organization, comprising nearly one-half the people of the State which I have the honor in part to represent in the National Legislature at the present time, upon a matter of the utmost gravity, which these resolutions are likely and prob-

ably were designed to increase and not to diminish, I feel under the necessity of briefly stating a few reasons why this action of your committee is to me a source of profound regret.

The assumption in the preamble, which is the logical basis of the resolutions, that Samuel J. Tilden and Thomas A. Hendricks have been duly elected President and Vice President of the United States for the term of four years next ensuing, and that the evidence is so plain and conclusive that no intelligent person of any political party doubts it; and that whereas *bad men have conspired against their inauguration, and are seeking to prevent it by fraud, usurpation and violence, and are thereby threatening to overthrow the Republic and subvert the liberties of the people*, is so entirely untrue, and known to be so by the American people, that I am not able to think that the very intelligent gentlemen composing your committee believe it themselves, and I am driven to the conclusion that this false statement is sent abroad at this time for the purpose of preparing the public mind for more active measures, the design of which is, if it can be done in no other way, to subvert the government by force, and establish a successful usurpation upon the ruins of our free institutions. Indications are not wanting that similar designs exist elsewhere. It can hardly be claimed that consideration for the morbid sincerity of minds diseased by many years of active sympathy with insurrection, turbulence, and armed hostility to the government of their country, requires that I should throw the mantle of charity over the false assumptions which it is attempted thus to palm off upon ignorant brute force—a most dangerous element in this country, which it is thus sought to arouse to readiness for any emergency which may be created by such ill-advised action as that of your committee; for notwithstanding the facts which I state below, all of which are well known to every

one who voted for these resolutions, or at least ought to be, they charge that no *intelligent* man doubts even the due election of Tilden and Hendricks, and that they who are seeking to prevent their inauguration are endeavoring to accomplish that object by *fraud, usurpation, and violence, and are thereby threatening to overthrow the Republic and subvert the liberties of the people.*

Gentlemen who can make an assertion of this kind ought not to expect credence of any statement whatever which they may see fit to make relating to political affairs; and, least of all, that in issuing a revolutionary manifesto of the sort they have here promulgated, any moderate and sensible person who knows how to read and who does read, or who has the slightest knowledge of affairs, should give them credit for political veracity. No such person could "doubt" that they are either ready to destroy their country for the sake of political power, or that, adopting their resolutions in the security of some social retreat, they have worded them a little more strongly than they really meant to. It certainly seems to me that ordinary respect for the opinions and feelings of people quite as numerous, possibly as intelligent, and, in the light of the history of the last twenty years, perhaps as patriotic and upright as themselves, should have led them to couch their "Declaration," before they "gave their hands and their hearts" to it, in different language, even if they believed their own assertions.

Driven as I am to elect between respect for the intelligence or the veracity of the authors of these resolutions, or to doubt both, or to excuse an indiscretion, I can only say that I choose to leave that an open question, and to invite them to a few considerations which occur to me as one of the ignorant persons who "doubts" the election (and legal inauguration also) of Tilden and Hendricks—one of the "bad men," who in my humble way and by peaceful constitutional means (and I know of no Republicans who are employing any other) have desired to ascertain whether they have been elected; and since by the action of the electoral colleges it is now fairly

settled in my judgment that they have not, and that Hayes and Wheeler are fairly, lawfully, and constitutionally chosen to the highest executive positions in the country, *now* desires first by temperate and candid discussion to make that fact apparent, and then to see those gentlemen peacefully inaugurated.

I need not refer to the bitter and exciting campaign through which we have passed, nor the propriety of adopting a line of conduct which shall lead men of all parties to endeavor to quiet rather than to disturb the public tranquillity by truth and moderation. Evidently that course is not contemplated by the managers of Mr. Tilden's interests, or at least of their own. But it should be remembered that in Louisiana, Florida, and South Carolina—the contested States, (although I believe several other States were wrongfully carried for Tilden and Hendricks, but the House of Representatives has refused to investigate the charges, though sending committees to the other three, about as numerous and certainly no more peaceful than the "troops" in the South) the only legal tribunals which can pass upon the result of the election in those States have in every instance decided, after the fullest investigation, at which both parties were strongly represented, that they were honestly and fairly carried by the Republican party; that certificates of election have issued in proper form to the electors, whose vote has been duly and constitutionally cast for Hayes and Wheeler, although it is said upon the best authority that large bribes were offered to members of the electoral college in each of those States to induce them to defeat the will of their people by voting against Mr. Hayes, after indescribable atrocities and crimes had failed to defeat him by the popular suffrage. That essential *one vote* which could not be obtained for Mr. Tilden by fraud, terrorism, and blood *before* election, nor by attempted bribery and subornation after it, anywhere among the despised but brave and incorruptible colored citizens of the United States living in the unfortunate South, was only to be secured by an abortive fraud attempted to be practiced upon the country by the Democratic Executive of a Northern

State, who, against his conscience and his own more honorable instincts—as in a case not unknown to the gentlemen composing the Democratic Committee of New Hampshire—has been elevated to a dishonorable immortality, for which Oregon is less responsible than New York.

The electoral colleges of the whole country have now voted as the Constitution requires. Hayes and Wheeler have 185 votes, Tilden and Hendricks have 184, and the case is settled in law, and I believe upon its merits, in fact, by what seems to me to be most explicit compliance with the laws of the State of Oregon and of the Constitution and laws of the nation. The Republican electors, whose election was certified to by Governor Grover, and who were the majority of the college constituting the only possible quorum, being met in the legal absence of the Democrat who fraudulently *withheld* the certificates which had been fraudulently *delivered* to him, filled the vacancy thus occasioned, and the full college then proceeded to cast three legal electoral votes for Hayes and Wheeler; all which facts are known to the country, and “intelligent” Democrats generally concede this themselves, so far as I know in this vicinity, as does the leading metropolitan Democratic press. These facts constitute a plain, legal, honest case of election of President and Vice President under the forms of the Constitution. The good sense of the country perceives this, and until there is a different showing, nothing can prevent the irresistible purpose of the American people to inaugurate Rutherford B. Hayes, the President of their choice. incendiary meetings and resolutions may provoke riot and bloodshed. I am aware that desperate men and powerful influences are at work, though acting less in the dark than they suppose, whose machinations, while ripening into crime, will never achieve the dignity of respectable insurrection.

The South is less averse to the result of the election than their allies of the North, and it may yet be found that there is more to be hoped from the sincere patriotism of men who once fought the flag, but now proclaim anew their love and devotion for it, than from the pestilent and perfidi-

ous school of Northern agitators who are “invincible in peace and invisible in war.”

This long looked for evidence that the greatest and best leaders of the South *can be trusted to trust themselves*, and that they may yet be wise enough to cut loose from the Northern men who have well nigh ruined both sections of our beloved land, is eagerly noted and will be gratefully remembered by all true patriots everywhere. It foreshadows the restoration of the Union in the hearts of the controlling elements of both sections. At last the South perceives that she must ally herself with the strength and not with the weakness of the North.

Now, my dear sir, I do not desire to be understood that there are no honest men who believe there is doubt of the election of Hayes and Wheeler, or who do not desire by fair investigation to review the action of State tribunals, whose action is certainly conclusive until it can be impeached. Nor do I mean to deny that there are Democrats who sincerely desire, by proper and peaceful methods, to ascertain the truth. There may be, and these resolutions will influence it if there is, an ignorant, violent, reckless, and irresponsible element in the Democratic party of this country, who will assume that anything their leaders say is true, and, like heedless animals, ready to rise up in madness and attempt to hurl the country for a time into confusion and anarchy. But I do mean to say that there is not now, so far as I can see, any reason why an “intelligent person” should doubt the peaceful inauguration of Mr. Hayes.

Should subsequent events confirm the now general belief that he has been fairly elected, any party or members of any party who shall make the experiment of “bulldozing” the American people on inauguration day, will wish they had never been born. If, on the other hand, which is not likely, Mr. Tilden should hereafter appear to be elected, I will fight, if necessary, to see him inaugurated and sustained. It may be well to play with fire, but I doubt it. It is better to make no premeditated efforts to inflame the public mind with false assertions and to seize the Government by intimidation and revolution. Violent

harangues, incendiary editorials, and treasonable resolutions, dressed in the garb of falsehood and assumed concern for the rights of the people, while really engaged in a conspiracy to destroy them, are exceedingly ill-timed, and may involve us all in great disasters. Possibly some may discover in a second rebellion what was not learned in the first, that to incite insurrection is a crime which is punishable by law.

In conclusion, I can only add that I trust we shall survive this exigency, and that the leaders of the great organization which through you sends me these resolutions will take counsel of their patriotism, give others credit for political sincerity if they

claim it for themselves, and remember that a word ill spoken in these times of anxiety is of dangerous tendency; that it may involve the issues of life and death to multitudes of their fellow-men, who have no interest in the country but to live in peace and enjoy the blessings of liberty—blessings which having so lately been secured by a terrific war, no man can guiltlessly again put in jeopardy by false statements and threats of violence.

I thank you personally for the kind terms of your letter of transmission, and with assurances of high esteem,

I am truly yours,

H. W. BLAIR.

A TRAGEDY IN REAL LIFE.

The fierce persecution of the Huguenots by the Romish Church in the sixteenth century has found its parallel in this age of civilization. The persecution of the colored citizens of certain parishes in Louisiana at the hands of Democratic ruffians, as established by the evidence taken before the returning board at New Orleans, is enough to bring the blush of shame to the cheeks of any man who lays claim to common humanity.

The perpetration of these outrages in *some foreign land would meet the protest* of every Christian nation and the intervention of those that make common cause with the weak and oppressed. The brutality of the Turks in Servia aroused all Europe to action, yet the cruelty practiced there in the midst of war hardly equals the cruelty practiced in certain Southern sections in time of profound peace. Take the case of the Pinkston family. The blood curdles with horror at its recital, yet it is but one of thousands equally atrocious. Henry Pinkston was a quiet, industrious colored man, respected by his neighbors as a peaceable citizen. He was outspoken in his political sentiments, and had considerable influence among his people in the parish of Ouachita, La. He lived in a neat cabin with his wife Eliza and an infant child. The Democratic rifle clubs had

made threats against him, but he moved on in the even tenor of his way, doing his duty as a man and citizen. The leaders of the rifle clubs, seeing their threats unheeded, and knowing the necessity of striking terror to the hearts of the colored voters in the parish, resolved upon killing Henry Pinkston. The men were selected to do the work, some thirty or forty. The time chosen was about two or three o'clock Sunday morning, two days before the election. It was believed, with this example fresh in their minds, the negroes would be so terrorized that most of them would keep from the polls, and in this they were right. The murder was resolved upon for a purpose; that purpose was keeping out of the ballot boxes Republican votes. The purpose was accomplished. But we will let the surviving victim, Eliza Pinkston, tell her own story of this brutal outrage, which robbed her of a home, a husband, and a child. First, imagine the returning board in session. There they sit, President Wells, a man of iron nerve, at their head. Every face is an intelligent one, and every one of the board looks like a man who is determined to get at the facts and to do his duty. The vote of this parish of Ouachita is in question. They are to count it if a fair election was held. Under the law they are to reject it if there has been intim-

idation sufficient to defeat a fair expression of the legalized voters. Tilden has a majority, although it is known that Hayes has three votes to Tilden's one in the parish. Why did they keep away from the polls? This is the question to be determined by the proof submitted. This is the question under discussion when Eliza Pinkston, borne in a chair by two strong colored men, and attended by a colored woman, is brought in to confront the board and the committees from the North representing the two parties. Silence like death falls upon the scene. Party passion is suppressed in the presence of this mutilated victim. A great wrong has been perpetrated by *somebody*. She says it was by the members of the Democratic rifle clubs in Ouachita; they say it was by her own friends. Which sounds the more reasonable? But to the story as it fell from her own lips:

The witness was sworn, and the following interrogatories were propounded to her by General Anderson:

Q. Do you live in ward one, known as the island, in the parish of Ouachita?

A. I don't know nothing about wards. I live in Ouachita Parish, at Hugh Young's place.

Q. Do you know what has become of your husband, Henry Pinkston?

A. Yes, sir.

Q. Was he killed in the day or the night time?

A. He was killed in the night—in the morning, before day.

Q. Was he in his house and in bed when his murderers attacked him?

A. Yes, sir.

Q. Give the names of those who attacked him, and the manner in which he was treated and killed.

A. Dr. Young was the first one that attacked at my door.

Mr. MOREY. Please propound the question so she may understand it.

General ANDERSON. You say that Dr. Young was there?

The WITNESS. He was the first one. They all rode by, thirty or forty, and they said: "Is Henry in? A friend of Henry's is come to guide him to Monroe." I said, "But, Doctor, you are not Henry's friend." I peeped through the crack, and Early burst the door open. Captain Craig cried out: "Gag him, he votes no radical ticket here; he may vote it in hell; he has voted thus far, and he may vote it no further."

They came in the house and they gagged him. That is when they cut him in the leg. I said, "O, Lord! don't kill my husband; that is all I have got." One man struck me in the face, on the head, with his pistol. They said, "Leave the damned son of a bitch." I said, "That is my husband." I grabbed Dr. Young, and he struck me with his pistol and knocked me down on the hearth.

President WELLS. How many others besides Dr. Young?

The WITNESS. There were several. I was a stranger in that parish. I knowed no more than what each other called the names. Frank Derms—I know him because he had his nose off. He was the only one, and Captain Tebault, that I knowed personally.

Q. Why did those parties attack and kill him?

A. They tied his legs together and dragged him out of the door, and shot him seven times. They had a pocket-handkerchief over his mouth.

President WELLS. How many times did they shoot him?

The WITNESS. Every time he was shot he drew his breath. They shot him seven times.

Q. State what those parties told your husband about fooling them as to his joining their Democratic club.

A. He told them that he had fooled them thus far, and he could fool them no further. One man said, "Burrah for Brewster," and he said, "I reckon by daylight Brewster would be damn sorry that he had got in this parish."

Q. Was not Henry Pinkston an active Republican, and was he not killed on that account?

A. He was killed because he was a Republican. They finally got him. Tebault said: "Give him hell, the damn son of a b—. He will vote no more Radical tickets here; he will vote in hell."

Q. State how you were treated, and who ill-treated you.

A. I will tell you. The doctor, the same man who shot Henry, shot me once. Some of them, I did not know who they were, had dealings with me, and one spoke to another and said, "I want some of that." They held my legs up and jumped on me.

President WELLS. Did you see them that shot you?

WITNESS. Yes, sir; they shot me twice. When they came in the house they told me to put my baby down. I told them, "No, sir."

Q. What became of your child? If it was killed, who did it?

A. They came in the house and said, "Put your baby down." I said, "O, no,

sir; what do you want to kill me for? I am nothing but a woman. If you kill me kill the whole of us." They cut my baby's throat from ear to ear. I raised my hand, and—and I let my baby fall. They wanted to take something from me before they killed me. Two of them had dealings with me before they shot me, and before they commenced dealings with me I ran under the bed, when he shot me in the leg. I ran under the bed. They caught me by the leg and pulled me out, and broke the bed. They cut me with the ax. One man said: "If you are going to kill the woman, don't be bothering with her;" and they wanted to kill me, and he cut me with a knife. I struck him and it flew up, and they never saw it again. They got another knife, and they cut and stabbed me, and they cut me on the legs with the ax, and on the side.

At this point the woman unfastened her dress and exposed her breast, which was all cut up, and was a most horrible sight to look at.

The effort of the examination caused her to faint, and the examination was therefore delayed for a few moments until she had recovered.

Q. In your last answer you stated that your child was killed; what became of your child's body?

A. They threw it in the lake, and we did not find it again under eleven days.

Q. Do you know of any one else being killed, shot, or whipped on account of their politics?

A. I don't know, sir, nothing about it. I walked down to the river, and I seen Marian Rhodes in there with his guts out.

Q. Do you know of any who were driven away from their homes on account of their politics?

A. I don't know, sir, what you call politics; I don't know who they drove away, but me. All I know is about myself.

Q. Did not many colored voters have to leave their homes at night through fear of these armed men riding over the parish at night?

A. Yes, sir; I went to a heap of people's houses, and they were lying out in the woods to keep from the bull-dozers; two staid up to the gin-house with me; both were women.

President WELLS. You said that your husband had been thrown down; what was the action of the parties that threw your husband down; what portion of his body did they cut; did they cut any portion of his body?

A. O, yes; they put a knife through and through him. You could hear the knife grinding like you cut new leather. Captain Tebault told somebody to jerk his arms out.

President WELLS. What part of his body was cut?

A. He was cut down below and he was cut in the ear.

Q. You stated in your answer that they had treated you improperly in regard to your person—that they had improper intercourse with you. Was that before or after you were shot?

A. That was before I was shot. They done nothing but this, and they asked the boys if any more of them wanted some, and then they went to shoot me. This thing was done outside in the moonshine. They took an ax to cut me, but the ax flew off the handle.

President WELLS. They first chopped you with an ax?

A. Yes, sir; and struck me in the head with a pistol. They killed my child when they were fooling with me. After they had killed my child I went to fight them with all my might. Then Logan stamped me here, (pointing to her breast,) and somebody knocked out all my jaw teeth. I did not have a hollow tooth in my head.

Mr. GAUTHREUX. Would we be allowed to put a question to the witness?

President WELLS. You ought to file your cross-interrogatories.

Mr. GAUTHREUX. What we want is the fullest investigation of the case; and there seems to me there could be no objection on the part of the board to any and all questions that can throw any light on this investigation. I would like to ask this question of the witness: If she did not, on the morning after the occurrence, state to John Swanson and Tidwell that a colored man had killed her husband?

The WITNESS, (emphatically.) O, no. They were not. There were two colored men there, but Tidwell told me not to tell who they were. O, no; O, no, no, no, no. We ain't going to have it that way. O, no, sir; they were white men. They all came back and tried to kill me, but they cannot have anything that way.

This last reply was given with startling emphasis. It seemed as if the dying victim of rebel hate had a new life given her to repel the insinuation that her wrongs came from the hands of her own people. Those who witnessed that scene before the returning board, whether Republican or Democrat, will never forget it, nor will any doubt the complexion of the assassin who killed the husband and the child, and left Eliza Pinkston maimed for life. No wonder that Governor Palmer, the Democratic leader from Illinois, turned from the sickening scene, exclaiming, "Whether it af-

fects Tilden or Hayes is a matter of no consequence. Certainly it is horrible."

This is but one of the long list of horrors which are set forth in the report before Congress, and now published in a volume of over 600 pages, to show the American people why the returning board of Louisiana could not, in obedience to their oaths, give the vote of certain parishes to Samuel J. Tilden. Could fair-minded Democrats of the North read this report they would disown the party in whose name these outrages were perpetrated, and would consign to infamy any one who would for a moment dare to justify or excuse them.

One of the Democrats who testified in relation to certain facts connected with this outrage showed the true spirit of Democracy in his heartless expressions. To him the killing of a colored Republican was of less consequence than the killing of a dog. He was asked by one of the board if he did not deem it necessary to send for the coro-

ner that the facts in relation to the murders might be investigated. This was his answer:

"I am getting sort of old, and niggers are all free. I don't feel like riding to Monroe and spending a night there and \$4 or \$5 to get a coroner. There were some gentlemen going, and I told them to tell him, and I buried the nigger."

How was he buried? Let this specimen citizen of Ouachita answer:

"Question. Was there any funeral?"

"Answer. No, sir; no funeral. I don't think there was a prayer at the grave; I staid there until they all left.

"Q. Was he put in a coffin?"

"A. No, sir; he was just rolled up in a quilt. He had laid so long we could not get any coffin for him. We put him in the grave, and just threw the dirt over him."

Should votes cast by such wretches in the face of such outrages be allowed to decide an election? The laws of Louisiana say no, and the returning board had the courage simply to execute the law.

THE COUNTING OF THE ELECTORAL VOTE.

ITS ANTECEDENTS AND HISTORY FROM 1789 TO 1873.

"In convention Monday, September 17, 1787.

"Present: The States of New Hampshire, Massachusetts, Connecticut, Alexander Hamilton from New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia.

* * * * *

"Resolved, That it is the opinion of this convention, that as soon as the conventions of nine States shall have ratified this Constitution, the United States in Congress assembled should fix a day on which electors should be appointed by the States which shall have ratified the same, and a day on which the electors should assemble to vote for the President, and the time and place for commencing proceedings under this Constitution. That after such publication, the electors should be appointed, and the Senators and Representatives elected. That the electors should meet on the day fixed for the election of the President, and should transmit their votes, certified, signed, sealed, and directed, as the Constitution requires, to the Secretary of the United States in Congress assembled; that the Senators and Representatives should convene at the time and place assigned; that

the Senators should appoint a president of the Senate, for the sole purpose of receiving, opening, and counting the votes for President; and that after he shall be chosen, the Congress, together with the President, should, without delay, proceed to execute this Constitution.

"By the unanimous order of the convention. "GEORGE WASHINGTON, President.

"WILLIAM JACKSON, Secretary."

Accordingly, in obedience to the foregoing resolution in the Senate of the 1st Congress, at the FIRST COUNT of the electoral votes of the several States, (April 6, 1789,) John Langdon, Esq., of New Hampshire, was chosen President of that body for the sole purpose of opening and counting the votes for President and Vice President of the United States, and it was—

"Ordered, That Mr. Ellsworth inform the House of Representatives that a quorum of the Senate is formed; that a President is elected for the sole purpose of opening the certificates and counting the votes of the electors of the several States in the choice of a President and Vice President of the

United States; and that the Senate is now ready, in the Senate Chamber, to proceed in the presence of the House to discharge that duty; and that the Senate have appointed one of their members to sit at the clerk's table to make a list of the votes as they shall be declared; submitting it to the wisdom of the House to appoint one or more of their members for the like purpose."

In response to this order Mr. Boudinot, from the House of Representatives, appeared in the Senate and said:

"Mr. PRESIDENT: I am directed by the House of Representatives to inform the Senate that the House is ready forthwith to meet the Senate to *attend* the opening and counting of the votes of the electors of the President and Vice President of the United States."

Not to participate in the count, nor to perform any active function in the count, but to "*attend*" with the Senate, and witness "*the opening and counting of the votes*" by the President of the Senate.

Mr. Langdon, as President of the Senate, in the presence of the two Houses, assisted by tellers appointed by those bodies, opened and counted the votes of the electors, announced the result to the two houses, and signed and issued the following certificate, prepared by Messrs. Paterson, Johnson, Lee, and Ellsworth, as a committee appointed for the purpose:

"Be it known, that the Senate and House of Representatives of the United States of America, being convened in the city and State of New York, the sixth day of April, in the year of our Lord one thousand seven hundred and eighty-nine, the underwritten, appointed *President of the Senate* for the sole purpose of receiving, opening, and counting the votes of the electors, *did*, in the presence of the said Senate and House of Representatives, *open* all the certificates and *count all the votes* of the electors for a President and for a Vice President; by which it appears that George Washington, Esquire, was unanimously elected, agreeably to the Constitution, to the office of President of the United States of America.

"In testimony whereof I have hereunto set my hand and seal.

"JOHN LANGDON."

A similar certificate, substituting the word "*Vice President*" for that of "*President*," and the word "*duly*" for "*unanimously*," was prepared for Mr. Adams.

At the SECOND COUNT (February 13,

1793) of the electoral votes of the several States in the Senate, it was (as the result of an agreement between the two Houses)—

"*Ordered*, That the Secretary notify the House of Representatives that the Senate are ready to meet them *in the Senate Chamber to attend* the opening and counting of the votes for President and Vice President of the United States, as the Constitution provides."

Not for either House to participate in the count, nor to perform any active function in the count, but for the two Houses to *attend* in the Senate Chamber and witness the count by the President of the Senate, "*as the Constitution provides*."

Hence, the two Houses having so assembled, the certificates of the electors of the several States, (fifteen in number,) were by the Vice President, (John Adams,) assisted by tellers appointed by the two Houses, opened and counted the votes; whereupon the President of the Senate declared, George Washington unanimously elected President of the United States, and John Adams Vice President by a plurality of votes.

At the THIRD COUNT (February 8, 1797) of the electoral votes, the Clerk of the House appeared in the Senate and said:

"Mr. PRESIDENT: The House of Representatives are ready to meet the Senate in the chamber of that House, agreeable to the report of the joint committee, *to attend* the opening and examining the votes of the electors for President and Vice President of the United States, as the Constitution provides."

Not to participate in the count, nor to perform any active function in the count, but to "*attend*" with the Senate and witness the count by the President of the Senate, "*as the Constitution provides*."

Hence, the President of the Senate, in the presence of the two Houses, assisted by the tellers respectively appointed by them, opened, examined, and counted the votes, and announced as the result of his count, that John Adams had been elected President and Thomas Jefferson Vice President of the United States.

He subsequently under a resolution reported by Mr. Mason, of Virginia, and adopted by the two Houses, "*made out and signed*" the following formal announce-

ment to Mr. Jefferson of his election as Vice President :

"*Be it known*, That the Senate and House of Representatives of the United States of America, being convened in the city of Philadelphia, on the second Wednesday of February, in the year of our Lord one thousand seven hundred and ninety-seven, the undersigned, Vice President of the United States and *President of the Senate*, did, in presence of the said Senate and House of Representatives, open all the certificates and *count all the votes* of the electors for a President and for a Vice President; by which it appears that Thomas Jefferson, Esq., was duly elected, agreeable to the Constitution, Vice President of the United States of America.

"In witness whereof I have hereunto set my hand and seal this 10th day of February, 1797.

"JOHN ADAMS."

At the FOURTH COUNT (February 11, 1801) of the electoral votes of the several States, in the Senate, (as the result of an agreement of a joint committee of the two Houses,) it was—

"*Ordered*, That the Secretary notify the House of Representatives that the Senate is ready to meet them in the Senate Chamber for the purpose of being *present* at the opening and counting the votes for President of the United States."

Not for either House to participate in the count, nor to perform any active functions in the count, but for the House to be "present" with the Senate and witness the opening and counting the votes for President of the United States, by the President of the Senate, as the Constitution provides.

Hence, the President of the Senate, in the presence of the two Houses, assisted by tellers respectively appointed by them, opened and counted the votes, and announced as the result of his count, "that the whole number of electors who had voted were 138, of which number Thomas Jefferson and Aaron Burr had a majority; but the number of those voting for them being equal (each had 73) no choice was made by the people, and that consequently the remaining duties devolve on the House of Representatives."

Subsequently the House having elected a President, and notified the Senate of the fact, the President of the Senate, under a resolution of that body, issued the following certificate :

"*Be it known*, That the Senate and House of Representatives of the United States of America, being convened at the city of Washington, on the second Wednesday of February, A. D. 1801, the undersigned, Vice President of the United States and *President of the Senate*, did, in the presence of the said Senate and House of Representatives, open all the certificates and *count all the votes* of the electors for President; whereupon it appeared that Thomas Jefferson, of Virginia, and Aaron Burr, of New York, had a majority of the votes of the electors, and an equal number of votes; in consequence of which the House of Representatives proceeded to a choice of a President, and have this day notified to the Senate that Thomas Jefferson has by them been duly chosen President; by all of which it appears that Aaron Burr, Esq., of New York, is duly elected, agreeably to the Constitution, Vice President of the United States of America.

"In witness whereof, I have hereunto set my hand and seal this 18th day of February, 1801.

"THOMAS JEFFERSON."

At the FIFTH COUNT (February 13, 1805,) of the electoral votes of the several States, in the Senate, (as the result of an agreement of a joint committee of the two Houses,) it was—

"*Ordered*, That the Secretary notify the House of Representatives that the Senate are now ready to meet them in the Senate chamber, for the purpose of being *present* at the opening and counting the votes for President and Vice President of the United States."

Not to participate in the count, nor to perform any active function in the count, but to be "present" with the Senate and witness the opening and counting the votes for President and Vice President of the United States, by the President of the Senate, as the Constitution provides.

Hence, the President of the Senate, in the presence of the two Houses, assisted by tellers respectively appointed by them, opened and counted the votes, and announced as the result of his count that Thomas Jefferson had been elected President and George Clinton Vice President of the United States. Subsequently, under an order of the Senate, he "made out and signed" the following certificate :

"*Be it known*, That the Senate and House of Representatives of the United States, being convened in the city of Wash-

ington, on the second Wednesday in February, in the year of our Lord one thousand eight hundred and five, the underwritten Vice President of the United States and *President of the Senate, did*, in the presence of the Senate and House of Representatives, open all the certificates and *count all the votes* of the electors for a President and Vice President of the United States; whereupon, it appeared that Thomas Jefferson, of Virginia, had a majority of the votes of the electors as President, and George Clinton, of New York, had a majority of the votes of the electors as Vice President; by all which it appears that Thomas Jefferson, of Virginia, has been duly elected President, and George Clinton, of New York, has been duly elected Vice President of the United States, agreeably to the Constitution.

"In witness whereof I have hereunto set my hand and seal this 14th day of February, 1805.

"AARON BURR."

At the SIXTH COUNT (February 8, 1809) of the electoral votes of the several States, in the Senate, (as the result of an agreement of a joint committee adopted by the two Houses,) "a message was received from the House of Representatives announcing that the House is now ready to attend the Senate [in the chamber of the House] in opening the certificates and counting the votes of the electors of the several States in the choice of a President and Vice President of the United States"—not to participate in the count, nor to perform any active function in the count, but to "attend" with the Senate, and witness the opening and counting the votes for President and Vice President of the United States.

Hence, the President of the Senate, in the presence of the two Houses, assisted by tellers respectively appointed by them, opened and counted the votes, and announced as the result of his count that James Madison was, elected President and George Clinton Vice President of the United States. Subsequently, under a resolution of the Senate, he "made out and signed" the following certificate:

"Be it known, That the Senate and House of Representatives of the United States of America, being convened in the city of Washington on the second Wednesday in February, in the year of our Lord one thousand eight hundred and nine, the

underwritten, *President of the Senate pro tempore, did*, in the presence of the said Senate and House of Representatives, open all the certificates and *count all the votes* of the electors for a President and Vice President of the United States. Whereupon it appeared that James Madison, of Virginia, had a majority of the votes of the electors as President, and George Clinton, of New York, had a majority of the votes of the electors as Vice President, by all of which it appears that James Madison, of Virginia, has been duly elected President, and George Clinton, of New York, has been duly elected Vice President, of the United States, agreeably to the Constitution.

"In witness whereof I have hereunto set my hand and caused the seal of the Senate to be affixed this — day of February, 1809.

"JOHN MILLEDGE."

At the SEVENTH COUNT (February 10, 1813) of the electoral votes of the several States, in the Senate, (as the result of an agreement of a joint committee adopted by the two Houses,) "a message from the House of Representatives announced that the House is now ready to attend the Senate [in the chamber of the House] in opening the certificates and counting the votes of the electors of the several States in the choice of a President and Vice President of the United States"—not to participate in the count, nor to perform any active function in the count, but to "attend" with the Senate and witness the opening and counting the votes for President and Vice President of the United States.

Hence, the President of the Senate, in the presence of the two Houses, assisted by tellers respectively appointed by them, opened and counted the votes, and announced as the result of his count, that James Madison had been chosen President and Elbridge Gerry Vice President of the United States. Subsequently, under a resolution of the Senate, he "made out and signed" the following certificate:

"Be it known, That the Senate and House of Representatives of the United States of America, being convened in the city of Washington, on the second Wednesday of February, in the year of our Lord one thousand eight hundred and thirteen, the underwritten, *President of the Senate pro tempore, did*, in the presence of the said Senate and House of Representatives, open

all the certificates and *count all the votes* of the electors for a President and Vice President of the United States; whereupon it appeared that James Madison, of Virginia, had a majority of the votes of the electors as President, and Elbridge Gerry, of Massachusetts, had a majority of the votes of the electors as Vice President; by all which it appears that James Madison, of Virginia, has been duly elected President, and Elbridge Gerry, of Massachusetts, has been duly elected Vice President of the United States, agreeably to the Constitution.

"In witness whereof I have herewith set my hand and caused the seal of the Senate to be affixed, this — day of February, 1813.

"WILLIAM H. CRAWFORD."

At the EIGHTH COUNT (February 12, 1817) of the electoral votes of the several States, in the Senate, (as the result of an agreement of a joint committee adopted by the two Houses,) a "message was received from the House of Representatives informing the Senate that the House is now ready to attend the Senate, [in the Representatives' chamber,] and proceed in opening the certificates and counting the votes of the electors of the several States for President and Vice President."

Not to participate in the count, nor to perform any active function in the count, but to "attend" with the Senate and witness the opening and counting the votes by the President of the Senate, for President and Vice President of the United States.

Hence, the President of the Senate, in the presence of the two Houses, assisted by tellers respectively appointed by them, opened and counted the votes, and announced as the result of his count that James Monroe had been elected President, and Daniel D. Tompkins Vice President of the United States.

Subsequently, under a resolution of the Senate, he "made out and signed" the following certificate:

"*Be it known*, That the Senate and House of Representatives of the United States of America, being convened in the city of Washington on the second Wednesday in February, in the year of our Lord one thousand eight hundred and seventeen, the underwritten, *President of the Senate pro tempore*, did, in the presence of the said Senate and House of Representatives,

open all the certificates and *count all the votes* of the electors for President and Vice President of the United States; whereupon it appeared that James Monroe, of Virginia, had a majority of the electors as President, and Daniel D. Tompkins, of New York, had a majority of the votes of the electors as Vice President. By all of which it appears that James Monroe, of Virginia, has been duly elected President, and Daniel D. Tompkins, of New York, has been duly elected Vice President of the United States, agreeably to the Constitution.

"In witness whereof I have hereunto set my hand this — day of February, one thousand eight hundred and seventeen.

"JOHN GAILLARD."

At this count objection was made to the count of the vote of Indiana by Mr. Taylor, of New York, a member of the House, on the ground that at the date of her vote she had not been admitted as a State into the Union, whereupon, the two Houses separated. In the House, after some debate, the resolutions on the subject were indefinitely postponed. The Senate took no action on the matter. The latter body returned to the chamber of the House, and the President of the Senate, in the presence of the two Houses, counting the votes of Indiana, concluded the count.

At the NINTH COUNT (February 14, 1821) of the electoral votes of the several States, the two Houses assembled in the hall of the House of Representatives, and the President of the Senate, in the presence of the two Houses, assisted by tellers respectively appointed by them, proceeded to open and count the votes. Objection was made to the count of the votes of Missouri by Mr. Livermore, of New Hampshire, "because Missouri is not a State in the Union." Whereupon the Senate retired to its chamber, but took no action on the objection. In the House, after some debate, the matter on motion of Henry Clay was laid on the table. The Senate returned to the hall of the House, the votes of Missouri were counted, the count concluded, and the President of the Senate announced the result. By a previous agreement between the two Houses, in anticipation of the objection to the count of Missouri's votes, as to the manner of declaring the vote, the President of the Senate announced that whether the

votes of Missouri be counted or not, in either event, that James Monroe was duly elected President and Daniel D. Tompkins Vice President of the United States.

At the TENTH COUNT (February 9, 1825) of the electoral votes of the several States the two Houses, agreeably to a joint resolution, assembled in the hall of the House of Representatives, and the President of the Senate, in the presence of the two Houses, assisted by tellers respectively appointed by them, proceeded to open and count the votes. He announced as the result of his count "that no person had a majority of all the votes of the whole number of electors appointed to vote for President of the United States; that the three persons having the highest number of votes are: Andrew Jackson, of Tennessee; John Quincy Adams, of Massachusetts; and Wm. H. Crawford, of Georgia, and that consequently the remaining duties devolve on the House of Representatives." "And he further declared that John C. Calhoun, of South Carolina, was duly elected Vice President of the United States." Mr. Adams was chosen by the House as President of the United States. Subsequently the President of the Senate "made out and signed" the following certificate:

"Be it known, That the Senate and House of Representatives of the United States of America being convened at the city of Washington, on the second Wednesday of February, in the year of our Lord one thousand eight hundred and twenty-five, the underwritten, *President of the Senate pro tempore, did*, in the presence of the said Senate and House of Representatives, open all the certificates and count all the votes of the electors for a President and for a Vice President of the United States; whereupon it appeared that John C. Calhoun, of South Carolina, had a majority of the votes of the electors as Vice President; by all which it appears that John C. Calhoun, of South Carolina, has been duly elected Vice President of the United States, agreeably to the Constitution.

"In witness whereof I have hereunto set my hand this — day of February, 1825,

"JOHN GAILLARD."

With the retirement of James Monroe passed from our politics the Revolutionary race of Presidents, Washington, Adams, Jefferson, Madison, and Monroe had all been active participants in the struggle

which had made the old colonies "free and independent States," and in the debates which framed the Constitution of the United States, or in the discussions in the press and State conventions which led to the adoption of that charter of our liberties. With them, too, passed from the active field of our politics the many sagacious and able men, soldiers and statesmen, compatriots in the Revolution, and associates subsequently in Congress in starting the new Government in 1789, and in ascertaining and establishing its powers under the Constitution.

In the convention which framed the Constitution and *who voted for the instructions to Congress embodied in the resolutions of September 17, 1787, (quoted on page 41.) providing for the appointment by the Senate of a President for the sole purpose of opening and counting the electoral votes*, were George Washington, Alexander Hamilton, James Madison, Jr., John Langdon, Roger Sherman, Benjamin Franklin, George Clymer, John Dickinson, William Paterson, William Livingston, Robert and Gouv. Morris, Charles and Charles Cotesworth Pinckney, John Rutledge, Hu. Williamson, Pierce Butler, William Few, George Read, Richard Bassett, &c. In Congress, at its first session, at the first count of the electoral votes under that resolution, were John Langdon, James Madison, Jr., Rufus King, Roger Sherman, Oliver Ellsworth, William Paterson, Caleb Strong, Elbridge Gerry, the Muhlenbergs, George Clymer, Richard Henry Lee, Pierce Butler, George Read, Richard Bassett, Fisher Ames, Chas. Carroll, Philip Schuyler, Thomas Sumter, Hu. Williamson, &c., all statesmen and jurists in the widest and most comprehensive sense, all thorough masters of political and civil law, with a thorough knowledge of the meaning of the Constitution and of their own intentions in framing that instrument, re-enforced in subsequent counts by such able jurists and legislators as James Monroe, Wm. B. Giles, Nathaniel Macon, Albert Gallatin, Nathaniel Niles, &c. These able and patriotic men, these fathers of the Republic and the Constitution, established the precedents, followed in ten successive counts of the electoral votes for

President and Vice President of the United States, by their proceedings in Congress, attested by the signature of the several Presidents of the Senate (John Langdon, John Adams, Thomas Jefferson, Aaron Burr, John Milledge, William H. Crawford, and John Gaillard) with the approbation of the Senate and under its orders, declaring that under the Constitution for which they had fought and bled, the President of the Senate was the officer designated by it to open all the certificates, to count all the votes, to declare the result, and to certify, over his signature, that he had so opened and counted the votes, with the result of his count to the successful candidates—all that in a ministerial capacity in the presence of the two Houses, which “attend,” without performing any active functions in the count, as public witnesses of the act.

With the rise of Andrew Jackson as a power in our politics, new and different men figure in Congress. A new era begins—that of demoralization, sedition, and treason—of war upon the Constitution and the political morals of the Republic—of the Van Burens, Woodburys, Isaac Hills, Wrights, Marceys, Calhouns, Haynes, Rhett, &c., who wield the destiny of the nation, starting with the declaration, as a fundamental law, of one of its ablest and most distinguished leaders, (Governor William L. Marcy,) in the Senate of the United States, that “to the victors belong the spoils.” Even under this era of usurpation and corruption, and up to the adoption of the now defunct 22d joint rule, the President of the Senate, without a challenge of his right by either House, (although under a slightly different form,) assisted by tellers appointed respectively by the two Houses, opens and counts all the votes, and declares the result. The tellers are simply clerical aids. They perform no other than the clerical function to read, examine, and ascertain the votes, after they have been opened and delivered to them for that purpose by the President of the Senate.

Hence, at the ELEVENTH COUNT (February 11, 1829) of the electoral votes of the several States for President and Vice President of the United States, the two Houses, agreeably to a joint resolution, assembled

in the chamber of the House of Representatives, and the President of the Senate, in the presence of the two Houses, assisted by tellers appointed respectively by them, opened and counted the votes, and announced as the result of his count, that Andrew Jackson, of Tennessee, was duly elected President, and John C. Calhoun, of South Carolina, Vice President of the United States.*

At the TWELFTH COUNT (February 13, 1833) of the electoral votes of the several States, the two Houses, agreeably to a joint resolution previously adopted by them, assembled in the chamber of the House of Representatives, and the President of the Senate, in the presence of the two Houses, assisted by tellers respectively appointed by them, opened and counted the votes, and declared as the result of his count, that Andrew Jackson was duly elected President and Martin Van Buren Vice President of the United States.

At the THIRTEENTH COUNT (February 8, 1837) of the electoral votes of the several States, the two Houses, agreeably to a joint resolution previously adopted by them, assembled in the chamber of the House of Representatives, and the President of the Senate, in the presence of the two Houses, assisted by tellers respectively appointed by them, opened and counted the votes, and declared the result. The vote of Michigan being questioned, on the ground that at the date of casting her electoral vote she was not a State in the Union, the President of the Senate, in announcing the result of his count, by a previous agreement of the two Houses, declared that whether Michigan be counted or not, in either event, Martin Van Buren, of New York, was duly elected President of the United States, but

* It is often asked: If the two Houses, under the Constitution, have no control over the counting of the electoral vote, why at every count prior to the twenty-second joint rule have the Houses united in joint resolutions regulating the manner of counting those votes? Simply in obedience to the Constitution. The two Houses are to be present at and witness the count, and accordingly these joint resolutions have been adopted in regulating the manner of their compliance with that injunction. They simply settle the place and hour of meeting for that purpose on the day fixed by law for the counting of the vote, and provide the clerical assistance in the appointment of tellers to the President of the Senate in the manual part of the count.

in either event no person had been chosen Vice President. Richard M. Johnson, of Kentucky, and Francis Granger, of New York, were the two who had received the highest number of votes for that office, and Mr. Johnson was on the same day, by the Senate, elected Vice President.

At the **FOURTEENTH COUNT** (February 10, 1841) of the electoral votes of the several States, the two Houses, agreeably to a joint resolution previously adopted by them, assembled in the chamber of the House of Representatives, and the President of the Senate, in the presence of the two Houses, assisted by tellers appointed respectively by them, opened and counted the votes, and declared as the result of his count that William Henry Harrison, of Ohio, was duly elected President, and John Tyler, of Virginia, Vice President, of the United States.

At the **FIFTEENTH COUNT** (February 12, 1845) of the electoral votes of the several States, the two Houses, agreeably to a joint resolution previously adopted by them, assembled in the chamber of the House of Representatives, and the President of the Senate *pro tempore*, in the presence of the two Houses, assisted by tellers respectively appointed by them, opened and counted the votes, and declared as the result of his count that James K. Polk, of Tennessee, was duly elected President, and George M. Dallas, of Pennsylvania, Vice President, of the United States.

At the **SIXTEENTH COUNT** (February 14, 1849) of the electoral votes of the several States, the two Houses, agreeably to a concurrent resolution, assembled in the chamber of the House of Representatives, and the President of the Senate, in the presence of the two Houses, assisted by tellers respectively appointed by them, opened and counted the votes, and declared as the result of his count that Zachary Taylor, of Louisiana, was duly elected President, and Millard Fillmore Vice President, of the United States.

At the **SEVENTEENTH COUNT** (February 9, 1853) of the electoral votes of the several States, the two Houses, agreeably to a joint resolution, assembled in the chamber of the House of Representatives, and the

President *pro tempore* of the Senate, in the presence of the two Houses, assisted by tellers appointed respectively by them, opened and counted the votes, and declared as the result of his count that Franklin Pierce, of New Hampshire, was duly elected President, and Wm. R. King, of Alabama, Vice President of the United States.

At the **EIGHTEENTH COUNT** (February 11, 1857) of the electoral votes of the several States, the two Houses, agreeably to a joint resolution previously adopted by them, assembled in the chamber of the House of Representatives, and the President *pro tempore* of the Senate, Mr. James M. Mason, of Virginia, in the presence of the two Houses, assisted by tellers respectively appointed by them, opened and counted the votes, and declared as the result of his count that James Buchanan, of Pennsylvania, was duly elected President, and John C. Breckinridge, of Kentucky, Vice President of the United States.

During the count, when the certificates of Wisconsin were read by the tellers, it appeared that the votes had been cast on December 4th, instead of the first Wednesday in December, which was the 3d. Upon that ground Mr. Letcher, of Virginia, objected to the count of the votes. A heated wrangle ensued. Mr. Humphrey Marshall and others of the House, and A. P. Butler and others of the Senate claimed the right of the two Houses to exclude the vote, but on the other hand such able Democratic Senators as Mr. Stuart, of Michigan, quoting the comments of Chancellor Kent, that "in the absence of all legislative provisions on the subject the President of the Senate counts the votes and determines the result," and that "the two Houses are present only as spectators to witness the fairness and accuracy of the transaction," declared, "that is precisely the view which I sought to present to the Senate yesterday." He added: "I disagree, therefore, with the Senator from Kentucky [Mr. Thompson] when he supposes this is a count by the Senate. *It is a count by the President of the Senate.* To secure fairness and accuracy it is a public count before two responsible organized bodies under the

Constitution. All that was done here in respect to the negotiation between the two Houses was simply done in courtesy. It had no binding effect in law," &c. The vote was counted and the result declared. The tellers [Messrs. Bigler, of Pennsylvania, of the Senate, and Geo. W. Jones, of Tennessee, and Howard, of Michigan, of the House,] reported the facts to their respective Houses, both Democratic, and the majorities of the two Houses, in defeating motions to interfere, sustained the count, and declared their sense that it was "a count by the President of the Senate,"—that the Houses had no voice in the matter.

At the NINETEENTH COUNT (February 13, 1861) of the electoral votes of the several States, the two Houses, agreeably to a joint resolution previously adopted by them, assembled in the chamber of the House of Representatives, and the President of the Senate, (Mr. John C. Breckinridge,) in the presence of the two Houses, assisted by tellers respectively appointed by them, opened and counted the votes, and declared, as the result of his count, that Abraham Lincoln, of Illinois, was duly elected President, and Hannibal Hamlin, of Maine, Vice President of the United States.

At the TWENTIETH COUNT (February 8, 1865) of the electoral votes of the several States, the two Houses, agreeably to the provisions of the twenty-second joint rule, now adopted for the first time, assembled "in the hall of the House of Representatives," and the President of the Senate, (Mr. Hannibal Hamlin,) under the provisions of the joint rule, in the presence of the two Houses, assisted by tellers respectively appointed by them, opened and counted the votes, and declared, as the result of the count, that Abraham Lincoln, of Illinois, was duly elected President, and Andrew Johnson, of Tennessee, Vice President of the United States.

At the TWENTY-FIRST COUNT (February 10, 1869) of the electoral votes of the several States, the two Houses, agreeably to the provisions of the twenty-second joint rule, assembled in the hall of the House of Representatives, and the President of the Senate *pro tem.*, (Mr. Benj. F. Wade,) under the rule, proceeded, in the presence of

the two Houses, assisted by tellers respectively appointed by them, to open and count the votes, when, upon the reading of the certificates of Louisiana, Mr. Mullins, a member of the House, objected to the count of the votes of that State, on the ground that no valid election had been held in it for President and Vice President. The Senate withdrew to its chamber. The two Houses separately decided to count the vote of the State. The Senate returned to the hall of the House, Louisiana was counted, and the count proceeded. When the certificates of all the States had been read except those of the State of Georgia, objection to the counting of the votes of that State was made by Mr. Butler, of Massachusetts—1st, because the votes were not cast on the first Wednesday in December, as required by law; 2d, because, at the date of the vote, the State had not been readmitted into the Union, or become entitled thereto; 3d, because the State had not complied with the reconstruction acts; and 4th, because no fair election had been held in the State—when the Senate withdrew to its chamber, and the objections declared out of order under a joint resolution previously adopted on the 8th of February, respecting the vote of Georgia. The Senate returned to the hall of the House, and the President of the Senate, finishing the count, declared, in accordance with the resolution of the 8th, as the result of the count, that whether Georgia be counted or not, Ulysses S. Grant, of Illinois, was elected President, and Schuyler Colfax Vice President of the United States.

At the TWENTY-SECOND COUNT (February 12, 1873) of the electoral votes of the several States, the two Houses, agreeably to the provisions of the 22d joint rule, assembled in the hall of the House of Representatives, and the President of the Senate, (Mr. Schuyler Colfax,) under the rule, proceeded in the presence of the two Houses, assisted by tellers respectively appointed by them, to open and count the votes. During the count the vote of the State of Georgia was objected to (by Mr. Hoar) on the ground that having been cast for Horace Greeley, and "the said Horace Greeley" being dead at the date the vote was cast,

was "not a person within the meaning of the Constitution," that being "a historic fact" within the cognizance of the two Houses.

The votes of Mississippi was objected to by Senator Trumbull on the ground that the certificates did not state that the votes had been cast by ballot, and further objected to by Mr. Potter, a member of the House, "because the certificate declaring that J. J. Spellman was appointed an elector in the stead of A. J. Morgan, absent, by the electoral college was not signed by the Governor of the State," &c.

The votes of Texas were objected to by Senator Trumbull, "because the executive authority of that State had not certified the appointment of the electors," and further objected to by Mr. Dickey, a member of the House, "because four electors, less than a majority," had filled "the places of other four electors," absent.

The votes of Arkansas were objected to by Senator Rice, "because the official returns of the election" show that the persons certified as electors by the Secretary of State were not appointed, and because the certificates were not according to law.

The votes of Louisiana were objected to by Senator West, because the "certificate was not made in pursuance of law." By Mr. Sheldon, a member of the House, objection was made to counting the votes cast for B. Gratz Brown, because the certificate was not signed by the person who was Secretary of State of Louisiana at the date of the vote, and because at that time there had not been any lawful "count, canvass, or return" of the votes of the people of Louisiana, and the Governor had signed the certificate without any authentic knowledge of the vote. Also Senator Carpenter objected to counting the votes cast by the Louisiana college for Grant and Wilson, because the State government was not Republican in form, because there was no proper return of votes cast by the electors, and no canvass or counting of the votes of the people prior to the meeting of electors. Also Mr. Potter, a member of the House, objected to counting the votes for Grant and Wilson by Louisiana, because no proper certificate of the executive

authority of the State accompanied the votes, but on the contrary, the persons certified by the Governor as appointed electors voted for no President, and for B. Gratz Brown for Vice President; also by Mr. Stevenson, a member of the House, because no electors were appointed according to law; also by Senator Boreman, for reasons set forth in the report of the Senate Committee on Privileges and Elections; also by Senator Trumbull, because the appointment of the electors was not certified to by the proper officers, and because the statements of "certificate are untrue in fact."

The Senate withdrew to its chamber. The Senate and House separately decided to count the votes of Mississippi and Texas, and not to count the votes of Louisiana. The Senate resolved that the votes of Georgia for Horace Greeley be counted, but the House decided not to count such votes; so, under the 22d joint rule, they were not counted. The House resolved that the vote of Arkansas be counted, but the Senate disagreed, and the votes of Arkansas were not counted.

Whereupon, the count being completed, the President of the Senate declared as the result that Ulysses S. Grant, of Illinois, was duly elected President, and Henry Wilson, of Massachusetts, Vice President, of the United States.

Thus, from the first count in 1789 to the adoption in 1865 of the 22d joint rule, the votes of the electoral colleges were, without a challenge by either House, opened, counted, and declared by the President of the Senate (and by that officer for ten successive counts formally certified over his signature) in the presence of the two Houses, only assisted by tellers appointed by the Houses as clerical aids in reading, examining, and ascertaining the votes from the certificates. Individual members, it is true, influenced, not by a study of the Constitution nor the precedents and practices under that instrument, but by the sentiments engendered in heated political struggles, have at different times questioned the power or right of the President of the Senate to canvass and declare the vote as a function independent of the con-

trol of the two Houses, and have claimed for the Houses the power to canvass and reject the vote of a State, but in no case were they sustained by a majority in either House. The acts and language alone of the fathers of the Constitution are decisive of the meaning and purpose of that instrument upon that point; their language and acts in Congress at the early counts, as in the convention which framed the Constitution. The precedents and practice, as the law, all attest and sustain his right, the Constitution makes it his duty, and he cannot evade the responsibility, even if he would.

As a matter of fact the only objection to the count of a vote prior to the adoption of the 22d joint rule, (except that to the vote of Wisconsin, in 1857, by which it was proposed to disfranchise a sovereign State through a legal fault involving neither fraud nor malpractice,) were those by members of the House to Indiana in 1817, to Missouri in 1821, and to Michigan in 1837, on the ground in each case that the State, at the date of the appointment of her electors, was "not a State in the Union." It was an objection outside and independent of the matter of counting the votes. It did not touch or question the duty of the President of the Senate to count the electoral colleges, nor assert any right in Congress to canvass or reject the vote of a *bona fide* State; but was a question, under the Constitution, properly subject to the decision of the two Houses in their legislative capacity. Hence, under the objection, the question was not whether, if States, their votes should be counted, but whether in the sense of the Constitution they were States. Only States could vote in the electoral colleges. If Indiana, Missouri, and Michigan were States their votes must be counted; if not States, of course they had no right to vote; but whether they were States or not was a question distinct from and independent of that of counting the vote, transcending the simply ministerial and limited judicial functions of the President of the Senate; it could only be determined when raised by the two Houses in Congress assembled.

INDIANA.

In the case of Indiana, in 1817, the facts

were: On April 19, 1816, an act was passed to enable the people of Indiana to form a State government, and on June 19, 1816, in convention, they adopted a constitution. At the Presidential election, in November following the State appointed electors, who voted, but a formal joint resolution for the admission of the State into the Union was not approved until December 11, 1816. Hence, Mr. Taylor's objection in the House, that Indiana at the date of choosing electors "was not a State in the Union." He argued that because "the electors of President and Vice President having been elected in Indiana before she was declared to be admitted into the Union by Congress he thought her votes no more entitled to be counted than if they had been received from Missouri or any other Territory." In that he was opposed by able men of all parties—by Messrs. Sheffey, Pitkin, Hendricks, and Ingham. They maintained that the only question for Congress to decide was, whether in framing the constitution and organizing her State government Indiana had "complied with the requisitions of the enabling act;" "whether the Constitution was republican in form—nothing more;" that "as soon as she had done so" she became *ipso facto* a State in the Union, "entitled to all State rights," "upon an equal footing with her sister States," and that "the resolution to admit her was merely a declaration that she had performed her duty." Hence, by "an almost unanimous" vote the resolution of Mr. Sharp to admit and Mr. Taylor's amendment "not" to admit were indefinitely postponed, and Indiana practically declared a State in the Union. The Senate took no action on the matter. When that body returned to the hall of the House the vote of Indiana was counted, and the count concluded and announced.

MISSOURI.

In the case of Missouri, in 1821, the facts were: A heated and dangerous political struggle between the sections growing out of the slavery question had attended every step in her admission, even threatening the dissolution of the Union. Consequently, the whole country was in a state of the greatest excitement—all parties sensitive

upon every question touching the State, Finally, (March 6, 1820,) was passed "an act to authorize the people of the Missouri Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States, and to prohibit slavery in certain Territories." On July 19, 1820, the people of the State met in convention, and framed a constitution in pursuance of said act. They also subsequently appointed electors who voted in the electoral colleges. On December 12, 1820, the Senate adopted a joint resolution "declaring the admission of the State of Missouri into the Union," but on February 14, 1821, the House rejected the Senate resolution. The constitution of the State was objected to on the ground that it did not fulfill the conditions of the enabling act—that it contained a clause repugnant to the Constitution of the United States. It was not until March 2, 1821, that a resolution was passed providing for the admission of Missouri "on a certain condition," which "fundamental condition" was ratified by the State "in a solemn public act" June 26, 1821, and on August 10, 1821, the President issued his proclamation declaring the admission of Missouri complete according to law.

Under the circumstances, and as a means of avoiding all controversy at the counting of the vote, as the vote of the State would make no difference in the result of the count, Henry Clay, in the spirit of the compromise which he subsequently effected in the settlement of the Missouri question, caused the adoption of a joint resolution which provided that, while counting the vote of Missouri, the announcement of the result of the whole vote should be in a hypothetical form. But even that was assailed by the sagacious and brilliant John Randolph, of Roanoke, in a philippic as severe as just. He arraigned the House for a violation of the Constitution. "He could not consent to this special verdict." "He could not recognize in that House or the other House, singly or conjointly, the power to decide on the votes of any State. Suppose you strike out Missouri and insert South Carolina, which also has a provision in its constitution repugnant to the Consti-

tution of the United States, or Virginia, or Massachusetts, which had a test, he believed, in its constitution—was there any less power to decide on their votes than on those of Missouri? He maintained that the electoral college was as independent of Congress as Congress of them; and we have no right to judge of their proceedings." * * * * "Suppose a case in which some gentleman of one House or the other should choose to turn up his nose at the vote of some State and say that if it be so and so such a person is elected, and if it be so and so What-you-call-'em is elected, did not everybody see the absurdity of such a proposition?" * * * * "He went back to first principles. * * * * Your office in regard to the electoral vote is merely ministerial; it is to count the votes, and you undertake to reject votes. To what will this lead?" * * * * "What was the theory of this Constitution? It is that this House, except upon a certain contingency, has nothing at all to do with the appointment of President and Vice President of the United States, and when it does act, must act by States, and by States only can it act on this subject, unless it transcends the Constitution." * * * * "If you for the first time now receive the votes of a State, it will be created into a precedent, and that in the lifetime of some of those who now hear me, for the manufacture of Presidents by this House."

Even after the votes had been counted and the result announced, hypothetically, as agreed upon, Mr. Randolph arraigned the announcement as a fraud upon the Constitution and an outrage upon the rights of the States; he introduced a resolution reciting the facts, and declaring the proceedings "irregular and illegal."

MICHIGAN.

In the case of Michigan, in 1837, the facts were: A long and violent controversy between Michigan and Ohio respecting the northern boundary of the latter, threatening at times a bloody collision between the militia of the two States, had attended all the efforts of Michigan to obtain admission into the Union prior to 1837. She had also a boundary dispute with Wisconsin, Illinois, and Indiana.

These controversies greatly complicated the question of her admission, being resisted as it was by all the influence of Ohio while the question of boundary remained unsettled. At length, (June 15, 1836,) an act was passed "to establish the northern boundary line of the State of Ohio, and to provide for the admission of the State of Michigan into the Union upon the condition therein expressed"—that is, upon the condition of her adopting the boundary prescribed in the act.

In September, 1836, under this act, a State convention assembled at Ann Arbor. It decided not to accept the terms of admission, and appointed a committee to proceed to Washington and urge the unconditional admission of the State; but on December 15, 1836, another convention, called, not by authority, but by parties friendly to admission upon the terms proposed, met at Ann Arbor, and adopted the conditions of the act of June, 1836.

These proceedings greatly added to the complications attending the question of her admission. Those of the second convention were denounced as revolutionary, illegal, and void—as even "monstrous." It was contended that Michigan had rejected the conditions imposed by Congress in the only legal convention which had met in the State under the act, and it was derisively asked: Who called the second convention which had adopted the conditions? Whom did it represent? The people of Michigan, or "the rag-tag and bob-tail" of the State? Could Congress recognize its acts?

Even some of its friends admitted that the proceedings, in their nature, were revolutionary, but maintained that, emanating and receiving their authority from the people, they were binding upon the State. Calhoun, William C. Preston, and others, while opposing her admission in the form proposed, contended, from their extreme State-rights view, that by her proceedings under the act of June 15, 1836, Michigan was a State, in fact, from the moment of her ratification of its conditions, and Congress had no right to traverse her proceedings. Its simple duty was to declare her a State.

Finally, after a protracted and acrimo-

nious contest, (January 26, 1837,) an act was passed providing for her admission, with a preamble which declared that the delegates of the people in convention had assented to the provisions of the act of June, 1836. Even under such circumstances the electoral votes of Michigan were counted, and reported in the list of votes as counted, although the result of the count was announced in a hypothetical form, as in the case of Missouri.

COLORADO.

At the TWENTY-THIRD COUNT, in February, 1877, no such objection can be raised, or, if raised, cannot be entertained by Congress. Colorado, the only State voting for the first time, had been for three months a State in the Union at the date of appointing her electors. The enabling act of March 3, 1875, providing for her admission into the Union, says:

"And if a majority of legal votes shall be cast for said constitution in said proposed State, the said acting Governor shall certify the same to the President of the United States, together with a copy of said constitution and ordinances; whereupon it shall be the duty of the President of the United States to issue his proclamation declaring the State admitted into the Union on an equal footing with the original States, *without any further action whatever on the part of Congress.*"

On "the first day of August, one thousand eight hundred and seventy-six," the President issued the proclamation commanded in the foregoing law, ending as follows:

"Now, therefore, I, Ulysses S. Grant, President of the United States of America, do, in accordance with the provisions of the act of Congress aforesaid, declare and proclaim the fact that the fundamental conditions imposed by Congress on the State of Colorado to entitle that State to admission into the Union have been ratified and accepted, and *that the admission of said State into the Union is now complete.*"

Hence, on the 1st of August, 1876, three months previous to the appointment of her electors for President and Vice President of the United States, Colorado, under the Constitution and the laws, was a State in "the Union, on an equal footing with the original States." Her electors were ap-

pointed and her electoral votes cast according to law, without a taint, question, or suspicion of malpractice or fraud, and no objection can be raised against her votes which will not equally apply, and for like reasons, to the votes of any of the original States. The labors of the present House,

therefore, in the petty farce of pretending to admit her, is simply a part of the violent Democratic programme of seizing upon the Presidency through organized violence and fraud. It will not succeed. The votes of Colorado will be counted, and counted for Rutherford B. Hayes.

THE LOUISIANA CASE.

For several months just previous to the election of 1868, the State of Louisiana was the theatre of turbulence and violence, resulting in murders in some instances so numerous as to amount to massacres.

While many things may have contributed to cause such barbarity, it was chiefly due to the changes wrought in the status of the people by the results of the war—the freeing of the slaves, their investiture with the right of suffrage, their equalization with their former masters and their masters' children before the law, not only an equality with them, but also with the poor, illiterate, degraded whites. The party in opposition to the Republicans took the form of a secret and armed political society, called the *Knights of the White Camelia*. Many planters, merchants, and business men throughout the State united in clubs, and bound themselves by resolutions to proscribe in business and employment persons who favored or voted with the Republican party. The Democratic press of the State in some cases advocated violence and bloodshed for political ends, in other cases secretly and covertly encouraged it, and in no case opposed it.

On the 28th of September of that year, in the parish (French name for county) of Saint Landry, a massacre of the colored people began which lasted from three to six days, in which from two to three hundred people were killed. During the same month a massacre occurred in the parish of Bossier, in which over two hundred were killed; in the parish of Caddo, in the month of October, over forty persons were killed, and in each of the parishes of Jefferson, Saint Bernard, Orleans, and Saint Mary many were murdered. Thirteen captives

were taken from jail and shot, and a pile of twenty-five dead bodies was found buried in the woods.

Republican processions were attacked by these "Knights," and over sixty persons were murdered. In the parish of Saint Mary and town of Franklin the sheriff and parish judge (Republicans) were publicly assassinated at their houses by a body of armed men. The Congressional reports of inquiries into these acts of outrage show that in the months of September, October, and November of that year more than one thousand persons were murdered for political opinions, over two thousand were killed, wounded, and otherwise injured, and that half the State was the scene of violence, midnight raids, secret murders, and open riots, which kept the people in constant terror.

In twenty-eight parishes which at the spring election of 1868 had cast a Republican vote of 47,923, only 5,360 were cast for Grant in November of that year. In nine of this same group of parishes in which 11,604 Republican votes were cast in the spring, only 19 were cast in the fall election; and in seven others of the group wherein a Republican vote of 7,253 had been cast in the spring, not one was cast in November. These same twenty-eight parishes in 1870 cast a Republican vote of 35,010, in 1872 a Republican vote of 33,666, and in 1874 a Republican vote of 36,518.

Prior to 1870 the election laws of Louisiana were similar to those of other States. The elections were held at regularly appointed polls, and the votes were counted by a certain class of officers known as judges or inspectors of election, who were clothed by law with certain powers, con-

sisting of, first, official authority to receive the votes; then to count them, which involved a semi-judicial authority of accepting or rejecting votes as they were legal or illegal—this power, of course, being limited by law; and the additional power of making the official certificates of the result of the vote. The last election held under this law was the election of November, 1868.

In 1870 the law was changed, and a departure taken in the method of election. The most material change, however, was in depriving the commissioners of election, presiding at the several polls, of the function and authority which such officers had previously exercised of making the final and official count of the vote, and of making the certificate, or return of the same, which constituted the *prima-facie* evidence of election; then in lessening the number of returning officers to five for the whole State, and in investing the officers with the above-mentioned functions and authorities of returning officers, namely, those of making the official and final count, and the only certificate and return known to the law.

The law then went further, and invested these five returning officers with another power, namely, that when there had been fraud, disturbance, riot, violence, or other acts of intimidation preceding or at an election, they should examine into the nature and extent of these acts, and if they found them of such character as to deprive the election, as held in any parish or precinct, of fairness and legality, they should so declare, reject the entire poll of such precinct or parish, and refuse to count the so-called votes thus made null and void.

In such a condition of society—if society it might be called—under such a state of facts as existed in 1868, when all the usual restraints of law and social order were absent, and when, by the most foul and cruel murders, with a general system of terrorism, coercion, and intimidation whole parishes were revolutionized, there could be no question and there was no doubt that the election was an absolute necessity. The question before the Legislature was how and where to place the authority to legally ascertain that nullity before the returns

were duly made and declared. It might have been lodged in the judges of election at the various polls; powers might have been conferred on them necessary to enable them to have rejected votes clearly and openly presented under duress and coercion, and in cases where an extensive conspiracy and general terrorism should have prevented a whole neighborhood or parish from voting at all, to have so certified the facts on which an ordinary canvassing board could have rejected the result of such pretended election as a nullity. But the same violence, force, and terrorism which could intimidate and prevent whole neighborhoods and parishes from voting, would also in the nature of things, as it had done theretofore, intimidate and overcome the judges of election and local returning officers, so that they would not and could not perform their duties. Therefore, practically, such a proposed remedy would be of no effect. It was for this reason that the Legislature of 1869-'70 took from the commissioners of election all returning functions, and left them mere ministerial and clerical officers to perform certain intermediary acts in the interval between the first deposit of the votes and the final count of the same by the proper returning officers.

In order to remove the returning officers from the theatre of such scenes of violence and intimidation, and to place them in a position where they would be able, in security and perfect freedom, to exercise their duties, the Legislature vested all these powers of counting the votes, of making returns, and of declaring the result of elections wholly and completely in five persons, to be chosen as directed by law, who were to meet at the capital of the State, and be the sole returning officers for all elections in the State; and then to these five returning officers was given the additional power, when assembled together, of receiving, considering, and determining evidence as to fraud, violence, and intimidation at any poll or in any parish, and if in their judgment this had been sufficient under the law to render the election null at any poll, to declare that fact, and carry it into effect by rejecting

from the count the votes so made null and void.

While no provisions of law can be more simple or more just than these provisions of the election law of the State of Louisiana, it is obvious that they are inadequate to render entire justice to the people of the State and secure the administration of a complete remedy; for if by reason of violence, terrorism, or other acts of intimidation perpetrated in the interest of one political party the adherents of another party are restrained from voting through fear, an equitable remedy for the outrage, if practicable, would be to count in favor of the injured party every vote thus lost; but the ascertainment of this, however, being difficult, the statute of Louisiana has provided only for the rejection of pretended votes.

In determining the result of the late election in Louisiana, the returning officers, in pursuance and in execution of this law of the State, after patiently considering and weighing a great amount of testimony, rejected and refused to count the pretended votes of the five parishes of East and West Feliciana, East Baton Rouge, Morehouse, Ouachita, and of a few polls of other parishes in which it was clearly proved that violence, coercion, and intimidation had prevailed.

These five parishes are near the State lines of Arkansas and Mississippi, where there might be some color for claiming that the crimes were committed by ruffians from those States, and were not only admirably situated in this respect for bull-dozing, but were more than admirably adapted for selection for such purpose, because of the great disparity between the honest Republican and Democratic votes they contained—13,244 Republican to 5,134 Democratic. In the selection of these parishes for the fiendish operations the design of the leaders of the Democratic party in Louisiana is apparent. In them there was an honest Republican majority of over 8,000 if the votes were fairly and freely cast, yet the apparent result of the November election was a Democratic majority of nearly 5,000. The parish of East Feliciana, for example, cast a Republican vote in 1874 of 1,688,

and had a registered colored vote in 1876 of 2,127, yet there was but *one* Republican vote cast in that parish in November last.

The conclusion is irresistible that violence, intimidation, and fraud alone could have produced this result; and that such influences were employed, and in many cases supplemented by most cruel murders of innocent and unoffending men, except that they were adherents of the Republican party, was proved before the returning officers beyond any color or shadow of doubt.

It is equally clear, and the conclusion is equally irresistible, that in endeavoring to procure the ascendancy of the Democratic party by the murders, whippings, assassinations, proscription in business and employment, and other acts of intimidating violence and outrage, the leaders of the Democratic party had a double purpose; first, to secure an apparent Democratic majority in the said parishes and take the chances of brow-beating the returning officers; and, secondly, and mainly of destroying the large Republican majority in those parishes. The election law of the State was well known to the Democratic leaders. But there was a clear and honest Republican majority in those five parishes of about 8,000, which, if the returning officers rejected the pretended vote, would be lost to the Republicans and gained to the Democratic party.

If the Presidency was a gift to be withheld or bestowed by the chairman of the National Democratic Committee, the recent announcement of Chairman Hewitt that Mr. Tilden was elected might amount to something. But as the office is given to the man who gets the majority of votes in the electoral college, the declaration of Mr. Hewitt will be regarded as the opinion of a single individual—nothing more.

THE man who preaches armed resistance to the will of the people, as expressed through the forms provided by the Constitution, should be regarded as a public enemy. With the American people, one majority is as good as one hundred.

FLORIDA.

THE CANVASS OF THE PRESIDENTIAL VOTE RESULTING IN A MAJORITY FOR HAYES AND WHEELER.

REPORT OF WM. E. CHANDLER, MEMBER OF THE REPUBLICAN NATIONAL COMMITTEE.

REPORT.

WASHINGTON, D. C., Dec. 26, 1876.

Hon. Z. CHANDLER, *Chairman Republican National Committee* :

SIR: Herewith is submitted an account of the proceedings before the State canvassing board of Florida, which I attended, as a representative of the committee and as counsel for the Republican candidates at the election on November 7 in that State.

NORTHERN DEMOCRATIC VISITORS.

Leaving New York city Wednesday evening, November 8, I reached Tallahassee on the afternoon of Sunday, November 12. At Jessup, Georgia, Generals Lawton and P. M. B. Young and several other Democrats from Georgia arrived on an extra train from Atlanta, and they also reached Tallahassee on Sunday. Subsequently came other Democrats, as follows: Messrs. George W. Biddle, David W. Sellers, Malcolm Hay, John R. Read, Samuel G. Thompson, and George W. Guthrie, of Pennsylvania; Joseph E. Brown, of Georgia; Perry H. Smith, of Illinois; C. Gibson, of Missouri; Manton Marble, of New York.

In addition to the foregoing gentlemen, who signed the various Democratic manifestos put forth from time to time, many other Democrats appeared and disappeared during the ensuing month—Messrs. J. F. Coyle, of Washington; Alexander Thain, of Yorkville, New York; Henry Grady, and Gen. Phil. Cook, of Georgia, and others too numerous to mention.

NORTHERN REPUBLICAN VISITORS.

On Friday, November 17, General Francis C. Barlow, of New York, arrived, and subsequently came Messrs. William H. Robertson and Daniel G. Rollins, of New York; Generals Lew Wallace and T. J. Brady, of Indiana; ex-Governor E. F. Noyes, Messrs. John Little and William M. Ampt, of Ohio; and Representatives J. M.

Thornburgh, of Tennessee, and John A. Kasson, of Iowa.

REPUBLICAN COUNSEL.

On my arrival I had been requested and had undertaken to act as legal counsel for the Republican candidates. There were no available local Republican counsel, except Judge J. P. C. Emmons, of Jacksonville, a lawyer of ability and eminence, who came at once to Tallahassee and remained, but whose sickness prevented him until a later day from rendering that continuous service that was needed; and Hon. Horatio Bisbee, Jr., of Jacksonville, Congressman-elect, who was unavoidably kept for the first two weeks engaged in his own district, in the eastern part of the State.

Additional Republican counsel were made necessary from the fact that the Democrats were fortunate in having the services of Messrs. S. Pasco, chairman of the Democratic State committee, and Geo. P. Raney, local lawyers of superior ability, and thoroughly familiar with their case and the politics of the State, who were aided by the eminent Democratic lawyers above named from without the State, who rendered constant legal assistance in preparing and presenting proofs and arguments. If any of the principal Democrats present were "impartial spectators," or merely "visiting statesmen," none of them so declared themselves to my knowledge; while to my view, courteous gentlemen as they were, even while bearing the disappointment attendant upon a bad cause in which they were fairly beaten, they were nothing but intense Democratic partisans, determined to be satisfied with no other result than a declaration of the vote of the State for Tilden, and to denounce as dishonest and fraudulent any other conclusion.

In view, therefore, of the eminent legal ability enlisted on the Democratic side the various Republicans from other States were solicited to act as counsel for the Republi-

can candidates. Messrs. Robertson, Rollins, Ampt, and Brady did so act, but the first two were very shortly recalled to New York by imperative business. Messrs. Kasson and Thornburgh, being members of Congress, declined to act as counsel, and so did Attorney-General Little, of Ohio, on account of his official relations to Governor Hayes, although he aided in preparing some of the arguments. Ex-Governor Noyes, of Ohio, also desired not to act as counsel, but was prevailed on to do so on account of Judge Emmons' sickness.

General Barlow, previous to his arrival, it had been assumed would act as leading counsel in association with Judge Emmons, which position he at once took without reluctance. Shortly, however, he informed us that he must not be considered as present as counsel merely, but also as a spectator or visitor, at the request of the President. This additional relation to the business he did not very clearly define; but it was immediately suggested to him that the Democratic side was represented by the ablest partisan lawyers in the country, and that the Republicans had urgent need of and must have able counsel acting in the unembarrassed relation of counsel alone; that his attempt to act in the two characters of a spectator or visitor and Republican counsel might lead to embarrassment to himself and injury to the cause of his clients; and that if he really felt it necessary to qualify the character, relations, and obligations of counsel it would perhaps be best for him not to appear at all in that capacity, but only from the beginning as a "visitor" or "spectator." He, however, stated that he did not consider that the two relations were incompatible, and that he desired to act as counsel. He therefore appeared before the court in the injunction and mandamus proceedings as the Republican counsel, and otherwise so acted; and in his relations to the whole contest is to be treated as attorney for the Republican candidates and subject to all the professional obligations of counsel to his clients.

FLORIDA REPUBLICAN—DANGER OF ALTERATION OF DEMOCRATIC RETURNS.

An investigation, immediately after

reaching Florida, of all the information as to the late election satisfied me that while there was reason to believe that the State had voted for Hayes and Wheeler by a small majority, yet there was imminent danger that a false and fictitious majority for Tilden would be created by the Democrats. The reasons for this fear were very evident.

The Republican majorities were in nine or ten counties, none of them remote or difficult of access, and they were immediately known and became unalterable, as follows:

Escambia.....	176
Gadsden.....	465
Leon.....	2,682
Jefferson.....	1,923
Madison.....	446
Alachua.....	717
Duval.....	930
Nassau.....	135
Marion.....	594
	<hr/> 7,418

The following counties were subsequently reported Republican:

Baker.....	41
Dade.....	4
	<hr/> 45

Total Republican majorities 7,463

These Republican majorities of over 7,400 being thus known immediately after election, it was not believed by any one that the majorities in the Democratic counties heard, or to be heard from, would overcome them, and the State was almost universally conceded to the Republicans until information came that the Presidential election depended on the vote of Florida.

At once the Democrats made claim that Florida had voted for Tilden, and that it would so appear when all the returns should arrive; and they commenced publishing tables of Democratic majorities in counties not heard from, in excess of what they had ever given, and they thus figured out a Democratic majority of about 1,000 in the State.

Under these circumstances the inference drawn by the Republicans was irresistible, that the Democrats, having claimed this fictitious majority, intended to create it by means of the returns from the Democratic counties not then heard from. This it was easy to do with little liability to detection before December 6, or indeed at any time. The following counties, with the vote ac-

tually at last returned from each, indicate the

FACILITIES FOR DEMOCRATIC FRAUDS:

	DEM.	REP.
Polk	456	6
Holmes	300	16
Walton	626	46
Lafayette	309	62
Taylor	242	73
Hernando	579	144
Hillsborough	790	186
Manatee	262	26
Orange	908	208
Washington	407	119
	4,879	886

In each of the foregoing ten counties, where as a whole the vote returned was 6 Democrats to 1 Republican, giving 4,000 aggregate majority, it is safe to say that an alteration of the figures to increase the majority from 50 to 100 could have been made without the possibility of detection before December 6th. All these counties except Taylor are remote and difficult to visit, and from all the returns came in late; so that the counties, with the same exception, could not be visited for the detection of suspected frauds. The Governor immediately after the election undertook to send to some western counties to examine the county and precinct records, but a rail was lifted and the train was purposely thrown from the track, and the telegraph wires cut, while Democrats with horses went on to the counties before Republicans could reach them. Later Republican agents sent to visit the counties of Hernando, Hillsborough, and Manatee were prevented from proceeding by warnings that they would be murdered unless they held passes from Mr. Pasco, chairman of the Democratic State committee.

DEMOCRATIC COUNTIES NOT UNDER REPUBLICAN CONTROL.

It has been suggested that the Democratic counties are under the control of Republican officers. Such is not the fact. The policy pursued by Governor Hart and also by Governor Stearns was that of appointing in Democratic counties at least two in three of the officers Democratic; and under the system of social ostracism, petty persecution, and political murder prevailing in Florida the Democratic counties have come almost entirely under Demo-

cratic control. This is the rule, the opposite is the exception.

PREPARATIONS FOR TRIAL OF CONTESTS.

While awaiting with great anxiety the delayed returns from these Democratic counties, and making, at the risk of the lives of their messengers, efforts usually ineffectual, to ascertain how the counties had voted, the Republicans made suitable preparation for the hearing before the canvassing board, which it was understood would commence as soon as all or substantially all the returns should arrive. This preparation consisted in procuring evidence of frauds and irregularities in precincts and counties giving Democratic majorities, and in support of the votes in Republican precincts which it was known or supposed would be attacked by the Democrats, and in the investigation by the various counsel of the questions of law and fact likely to arise.

REPUBLICAN STATEMENTS SENT OUT.

Two statements were given to the public by the visiting Republicans and others, copies of which are annexed—one dated November 16, 1876, and signed by Messrs. Thornburgh, T. W. Osborne, Chandler, M. Martin, Chairman Republican Campaign Committee, Emmons, and Howard Carroll; and the other dated November 20, and signed by Messrs. Barlow, Thornburgh, Chandler, Noyes, Robertson, Rollins, Emmons, and Wallace.

QUESTION WHETHER GOVERNOR OR BOARD SHOULD CANVASS PRESIDENTIAL VOTE—FUTILE LEGAL PROCEEDINGS.

A question having been raised by the Democrats whether the Presidential vote should be canvassed by the Secretary of State and the certificates given the electors by the Governor, under the law of January 6, 1847, or whether it was to be canvassed, like the vote for State officers, under the law of 1872, by the canvassing board, the Democratic State committee waited on Governor Stearns and asked to be heard on the question, and he requested them to submit their views in writing. Instead of doing this, they commenced legal proceedings, in the name of the Democratic candidates for electors, before Judge P. W. White, of the local circuit court—first, by bill in equity to restrain the Governor from

canvassing; second, by mandamus to compel the canvassing board to commence at once to open, publish, and canvass the Presidential returns. These cases were argued with ability by Messrs. Raney, Sellers, J. E. Brown, and Biddle on the Democratic side, and by General Barlow and Judge Emmons on the Republican side.

As the judge of the circuit court had no jurisdiction; as a bill in equity in such a case was a transparent absurdity; as the Governor disclaimed any intention of canvassing the Presidential vote; and as the canvassing board said they were going on when the returns were in, the proceedings were of no account, and Judge White went home and rendered no judgment.

MEMBERS OF CANVASSING BOARD.

Monday, November 27th, the returns having all arrived except from the little county of Dade, the canvassing board commenced its sessions. The board consisted of the following gentlemen: Samuel B. McLin, Secretary of State, president of the board; Clayton A. Cowgill, Comptroller; William Archer Cocke, Attorney-General.

These members were all Southerners, born and reared. Mr. McLin is a lawyer of ability, and a man of integrity as well as courage, and disregarded alike the seductive suggestions and the fierce denunciations of the Democrats, Northern and Southern, who attempted to coax or intimidate him. Dr. Cowgill is a gentleman of culture and capacity, exceedingly upright and conscientious, who came to his conclusions slowly and carefully, and with as earnest a desire to do right as any man in his situation could be capable of. He is worthy of all honor from the Republican party; and if he would write a plain narration of the efforts made by Democrats to induce him to give a false judgment, it would put his disappointed defamers to shame, and insure him the respect and friendship of every honest man of whatever party. Attorney General Cocke is a learned lawyer; and although an intense Democratic partisan, is naturally right-minded and determined to administer legal rules correctly, but too easily controlled by his Democratic associates. November 14th he sent North the following dispatch:

"TALLAHASSEE, FLORIDA, Nov. 14.

"The returns of the county managers are not yet in. The board of State canvassers, of which I, as Attorney General, am one, does not meet until 35 days after the election, but you may rest assured that Tilden has carried the State and Drew is elected. I do not think the Radicals can cheat the Democrats out of the State."

"WILLIAM ARCHER COCKE."

Objection was made to his sitting upon the board of State canvassers, as appears by the record annexed, but his colleagues decided not to substitute, as they had a right to do, any one in his place.

RULES ADOPTED FOR CANVASS.

The board announced rules for their guidance, a copy of which is annexed, and which had been unanimously adopted, and were not objected to by the Democrats at any time.

RETURNS OPENED; HAYES 43 MAJORITY ON FACE.

Tuesday, November 28th, the returns were opened from all the counties, except Dade, with the following result:

"ROOMS OF STATE CANVASSING BOARD,

"TALLAHASSEE, Nov. 28, 1876.

"I hereby certify that the returns from all the counties of the State, except Dade county, were this day opened by the board of State canvassers, and the vote for electors as officially announced from the face of the returns in detail aggregates as follows: Humphreys received 24,328; Pearce received 24,324; Long received 24,323; Holden received 24,328; Yonge received 24,284; Call received 24,285; Hilton received 24,283; Bullock received 24,282. The first four names are the Republican, and the last four the Democratic candidates.

"W. LEE APTHORP,

"Clerk of the Board."

Dade returns came in Monday, December 4th, as follows: Hayes 9; Tilden 4.

BAKER COUNTY RETURN.

Since the declaration of the foregoing result the Democrats have claimed that the return from Baker county, showing 41 Hayes majority, was incorrect, and that a statement from the clerk of the county showing 95 Tilden majority should have been taken as the true return.

Two questions arise in this connection, which should be carefully kept separate:

I. Was the return which was opened and

counted by the board in the first instance a true return upon its face; and the statement from the clerk no return on its face?

II. Whatever the returns may have been, should the board, going behind the face of the returns, according to their powers, upon the final count reckon the county 41 for Hayes or 95 for Tilden?

The first point the board decided in favor of the Republican return; but, secondly, upon the final count decided to allow the 95 Tilden majority, doubting whether on the whole the county board had rightly decided to throw out two precincts.

But that the Republican return on its face was regular and the Democratic irregular, there should not be a difference of opinion. In brief: the first was signed by the county judge, sheriff, and a justice of the peace, who may by law be a county canvassing board; the second was signed by the county clerk and a justice, who can in no event by law be a canvassing board. Therefore the Republican return was correctly taken in the first instance. If the board could not go behind the returns at all, as the Democrats now contend, then Hayes had an unquestionable majority; if they could go behind them, and alter the Baker county figures by allowing the precinct returns which the county canvassers had thrown out, then they had a right to correct other counties as well, and the total Hayes majority of 930 finally reached must be accepted. If the opinion of counsel is of any value, my judgment is that the board, if going behind the county return, might well have thrown out the whole county vote for illegal registration and other frauds.

DUVAL COUNTY RETURN.

It has been attempted by the Democrats to liken their clerk's certificate from Baker county to the return from the Republican county of Duval, where the clerk and the justice only signed the return. The difference is apparent. In Duval county the return showed that the county judge was present with the clerk and justice, and refused to sign the return, but made no different return. A legal board was here constituted although only two signed; but in Baker county the clerk and justice under-

took to act without either judge or sheriff, which they could not legally do.

Much space is given to this Baker county question, because of the persistent Democratic claim that a return signed by a clerk and justice was the legal return, although opposed by a return signed by the county judge, sheriff, and justice.

CLAY COUNTY RETURN.

The return from Clay county, on which 188 Tilden majority was claimed, was also irregular and uncertain, and possibly false upon its face, but as the board unquestionably at that time had judicial power to go behind the returns its irregularities in form did not appear of so much consequence as they have since been made by the extraordinary decision of the supreme court, and therefore the board counted this return in the first instance, and subject to final review, as showing, as well as they could make out from the face of the returns, 165 majority for Tilden.

HEARING OF CONTESTS.

From Tuesday, November 28, until late in the evening of Monday, December 4, every day except Sunday, was occupied by the board in hearing and receiving charges, proofs, and arguments in reference to contested counties. There is herewith submitted the shorthand writer's report of the proceedings, which is substantially accurate. The papers in each contest are only partially copied, but will undoubtedly be reproduced by the Congressional committees of investigation.

EXTREME FAIRNESS OF TRIAL.

No trial, even before a court of justice, was ever conducted with more conspicuous fairness than were the proceedings of the board; nor was ever defeated party allowed greater latitude of proofs and arguments. Every witness asked to be examined orally was so examined. On Monday evening, December 4, after the final argument by the Republicans in the case of the Key West precinct, Monroe county, additional witnesses for the Democrats were examined. No complaint has been uttered by the Democrats of the manner of conducting the canvass by the board; they only complain, in reckless and vituperative language, of the result. That was dishonest, they

say, because the State was not given to Tilden. They try to make up in violent assertion what they lacked in proofs.

DECISION OF BOARD—930 MAJORITY FOR HAYES.

The board re-examined the evidence and arguments on Tuesday and Tuesday night, and finished the canvass about 3 o'clock on Wednesday morning. A copy of their official minutes is hereto appended, showing the concurrence by Attorney General Cocke in the exclusion of sufficient Democratic votes to give Hayes and Wheeler a decided increase over the majority of 43 appearing on the face of the returns, and showing a total majority for Hayes of 930 by the final judgment of a majority of the board. I annex also an explanatory letter, dated December 9, from Comptroller Cowgill to General Barlow, showing the reasons for the action of the board.

It is not my object in this report to review in detail the whole action of the board resulting in their final decision. It is, as I understand it, the adjudication of a political tribunal, created by the State of Florida for the declaration of the result of an election within the State, which declaration, made upon the evidence before it at the time, is not legally reviewable or reversible by any power whatever. The tribunal is, however, amenable to public opinion, and two Congressional committees are now investigating its history, and will be heard from in due time. If the subject is fairly and candidly treated I believe the judgment of the board will stand not only legally right but morally impregnable.

Without reviewing the whole case, however, I desire to call attention to the subject of the

JURISDICTION OF THE CANVASSERS TO GO BEHIND THE RETURNS.

The jurisdiction of the State canvassing board to go behind the face of the returns and ascertain the true vote at the election appears from the following section in the election act of 1872:

"On the thirty-fifth day after the holding of any general or special election for any State officer, member of the Legislature, or Representative in Congress, or sooner, if the returns shall have been received from the several counties wherein

elections shall have been held, the Secretary of State, Attorney General, and the Comptroller of Public Accounts, or any two of them, together with any other member of the cabinet who may be designated by them, shall meet at the office of the Secretary of State, pursuant to notice to be given by the Secretary of State, and form a board of State canvassers, and proceed to canvass the returns of said election, and determine and declare who shall have been elected to any such office or as such member, as shown by such returns. *If any such returns shall be shown or shall appear to be so irregular, false, or fraudulent that the board shall be unable to determine the true vote for any such officer or member, they shall so certify, and shall not include such return in their determination and declaration;* and the Secretary of State shall preserve and file in his office all such returns, together with such other documents and papers as may have been received by him or by said board of canvassers. The said board shall make and sign a certificate, containing in words written at full length the whole number of votes given for each office, the number of votes given for each person for each office, and for member of the Legislature, and therein declare the result, which certificate shall be recorded in the office of the Secretary of State, in a book to be kept for that purpose, and the Secretary of State shall cause a certified copy of such certificate to be published once in one or more newspapers printed at the seat of government."

PRACTICE AND PRECEDENTS.

The practice under this statute has been uniform to go behind the face of the returns, and upon facts shown, to correct or reject precinct returns, so as to get at the true vote. This practice has existed in accordance with the opinion of Attorney General Cocke, who decided that returns may be shown to be irregular, false, or fraudulent by such evidence as the board may see fit to receive and regard. In his testimony before the Senate committee now at Tallahassee the Attorney General testified, in confirmation of his previously written opinion, that he acted in the late canvass, without objection, in the work of revising the returns, going behind their face, and upon the evidence given determining what actually was the true vote. His testimony was confirmed by the Secretary of State and Comptroller, the latter testifying as follows:

"In canvassing, following the precedent

established by the board two years before, and acting under the advice of the Attorney General, who was a member of the board, we exercised judicial functions, that is, we thought it was our power and our duty to examine into the county returns and test their correctness, not only by the returns themselves but by evidence which was presented."

The canvassing, therefore, was proceeded with on the foregoing theory, without any objection from any of the eminent Democratic counsel present until they submitted their final argument. They then contended that the board could not go behind the face of the returns, but they maintained, with marvelous inconsistency, that they should reject a county return and count the precinct returns in Baker county, and correct an alleged Republican fraud in Alachua county, but that they could not regard the proven frauds in Jackson county, nor other gross violations of election laws, rendering various precinct votes invalid by any reasonable rule.

THE STATUTE REMEDIAL AND BENEFICIAL—TO GET AT THE TRUE VOTE—AND THEREFORE TO BE CONSTRUED LIBERALLY FOR THAT PURPOSE.

The practice thus adopted to go behind the county returns to ascertain the true vote seems to conform to the correct theory of the statute. Its purpose was remedial—that is, to correct falsity and fraud in elections, and to get at the true vote of the people at the polls, and it is therefore to be construed liberally to accomplish this purpose.

To hold that whether a return is irregular, false, or fraudulent is to be decided merely by inspecting its face is a transparent absurdity. Irregularity might sometimes appear on the face, but falsity and fraud never would. Hence, to execute fairly the statute the board must necessarily go beyond the face of the returns and receive evidence. This also further appears by the use of the words "shall be shown or shall appear," and by the provision for the preservation of the evidence, as follows: "and the Secretary of State shall preserve and file in his office all such returns, together with such other documents and papers as may have been

received by him or by said board of canvassers."

To decide that the board may only receive evidence as to whether a return is genuine or a forgery also destroys the remedial statute, for the board unquestionably could do that, exercising the most limited ministerial powers, without the statute. A fair construction of the law would seem to be that the board, in its efforts to prevent falsity and fraud and to ascertain and declare the true vote, may look behind the county return and go to the bottom of the poll in each precinct, and ascertain what the true vote actually was. If they find a county return so tainted with falsehood and fraud that the true vote of the county cannot be ascertained, they are authorized and required by the statute to throw out the whole county vote. If the falsity or fraud anywhere discovered only partially taints or renders unascertainable the true vote, the board may reject only *pro tanto*, and include the balance of the vote ascertained to be true.

Not to allow the board to go beyond the county return at all except to ascertain its genuineness, or to go to the other extreme, and hold that the discovery of any fraud or falsity in any one particular, although capable of separation from the true vote, would require the rejection of the whole county vote, are constructions alike unreasonable and contrary to the manifest purpose of the statute. Hence, therefore, has arisen the practice, under the statute and the opinion of the Attorney General, upon the ascertainment by evidence duly preserved, of irregularity, falsity, or fraud, to purge the returns and polls, in accordance with well-settled principles of election law, of the votes irregularly, falsely, or fraudulently cast or returned, and to ascertain, declare, and allow to stand "the true vote."

The jurisdiction of the canvassing board thus exercised seems to stand upon unsailable foundations of reason and justice, and upon the true construction of the Florida statute.

SUPREME COURT'S LATE ORDER FOR RE-CANVASS OF GOVERNOR VOTE.

The late extraordinary action of the

Supreme Court of Florida in ordering a re-canvass of the vote for Governor and State officers, according to the face of the returns merely, seems to me to be entitled to no consideration, and should have been disregarded from the beginning by the canvassers.

WAS IT A POLITICAL AND NOT A JUDICIAL DECISION?

1. As this decision has been reported at the North, the court decided that the board of canvassers, in performing its duties under the statute, may not go behind the county returns, and must determine whether any return is so irregular, false, or fraudulent that the true vote cannot be ascertained, not upon evidence shown the board, but only by an examination of its face, and thereupon issued a peremptory mandamus compelling a re-canvass of the vote for Governor according to the face of the county returns.

If such has been the decision, plainly contrary to the language of the statute as above given, the conclusion would seem to be irresistible that it cannot have been an impartial judicial judgment, but must be considered as having been rendered for the purpose of improperly accomplishing predetermined political results, and therefore should have been promptly disobeyed, whatever the consequences to the canvassers.

BOARD HAD CEASED TO EXIST, AND COULD NOT LEGALLY RECONVENE.

2. The board of canvassers, having finished its work, certified the result and adjourned without day, could not be compelled to re-convene by any power, and it was a judicial usurpation to order it to do so. This point is too plain to need argument. I state only the following authorities :

In 2 Minnesota, 346 : "A board of canvassers having canvassed the votes cast at an election, adjourned *sine die*. Held that the board by virtue of such adjournment became dissolved and *functus officio*. They have no right or power to re-convene and reconsider their action or correct errors in their proceedings. Nor can the court revive its powers or exercise legal control over it. A writ of mandamus will not lie to compel an officer to do an act which, without its command, it would not be lawful for him to do."

In Hadley *vs.* Mayor, 33 New York, 603, it was held that the common council of the city of Albany, having once legally canvassed the votes returned for the election of mayor of said city, have exhausted their power over that subject, and cannot afterward reverse their decision by making a different determination.

"A canvassing board having once counted the votes and declared the result according to law, has no power or authority to make a recount. When this duty is once fully performed it is performed once and forever and cannot be repeated." (McCrory on Elections, § 93, Bowen *vs.* Hixon, 45 Mo., 350; Gooding *vs.* Wilson, 42d Congress; McCrary, § 85, Morgan *vs.* Quackenbush, 22 N. Y., 72; McCrary, § 105, State *vs.* Dunniworth, 21 Ohio, 216; McCrary, § 335, Magee *vs.* Supervisors, 10 Cal., 376.)

THE ILLEGAL RE-CANVASS UNDER ORDER OF COURT CONCLUSIVE THAT HAYES HAD MAJORITY.

3. The board, however, having in submission to the mandate of the court, illegally reconvened and under protest attempted a re-canvass of the vote for State officers, was clearly bound to move according to its own discretion, and could not be limited by any order of court as to its mode of determining as to the irregularity, falsity, or fraudulent character of the returns, nor be directed by the court what conclusion to reach as to any return.

"Mandamus will only lie to compel but not to control canvassers. They may be told to act and to decide but not how they should decide. (McCrory on Elections, §§ 331, 332.)"

The board, therefore, on their attempted re-canvass came to the conclusion that according to the order of the court the Democratic candidate for governor was elected by 195 majority; and by way of precaution added that if the electoral vote, which was not re-canvassed, had been reconsidered according to the new principles laid down by the court, it would have resulted in a majority for the Hayes electors of 211. A copy of the record of their action is annexed.

This last action of the board cannot be reversed in any way (except in favor of its first action) unless, indeed, the court should undertake to usurp in every way the functions of the board, and make the canvass itself, when, of course, this last illegality

would have to be resisted, as should have been the first.

**THE HAYES MAJORITY FAIRLY OBTAINED,
NOTWITHSTANDING DEMOCRATIC RAVINGS.**

In conclusion I may be permitted to say that all the Northern Republicans present in Tallahassee, including those who acted before the board as Republican counsel, were scrupulously careful neither to suggest nor allow anything to be done or attempted, for the purpose of securing a majority for Hayes and Wheeler, which would not bear the fullest subsequent scrutiny. A fairer result, produced by fairer means, according to law and evidence, was never accomplished, and the reckless ravings of the distinguished Northern Democrats in their letter to Mr. Speaker Randall, dated December 6th, (a copy of which is annexed,) only show the insane vituperation in which disappointment may lead wise men to indulge. But they only deal in generalities and state no specific facts to justify their assertion that the majority for the Hayes electors was the result of a "deliberate, preconcerted scheme of fraud," perpetrated upon a "gentle, long-suffering people whose patience has permitted their oppressors to live."

MURDER OF REPUBLICANS THE SOUTHERN POLICY.

That the result was not fraudulent is proved by the concurrence of the Democratic Attorney General Cocke in the throwing out for illegalities of precincts sufficient to give the Hayes electors over 400 majority. That the gentle, long-suffering Democratic Florida lambs do not need the incitement to murder Republicans authoritatively given them by this Northern Democratic manifesto is proved by the long list of assassinations that have marked their pathway to power. Eighty unpunished murders in Jackson county, including those of John L. Finlayson, a native Southerner, who had been a surgeon in the rebel army, and John Q. Dickinson, a Vermonter, permanently settled as a mill-owner, each shot for being a Republican and holding the office of county clerk, have served to change that county from Republican to Democratic, without which change,

through murder, Florida would have gone unquestioned for Hayes. Two years ago the Florida Senate stood 12 to 12. Senator E. G. Johnson was shot dead July 21, 1875, at Hart's Road, Nassau county, and his murderer, though well known, went unpunished. Of course the Senator was a Republican, and "this gentle, long-suffering people, whose patience had permitted their oppressors to live," obtained a Democratic majority in the Senate. Secretary of State McLin's life now is not safe in Tallahassee, and if he goes out evenings after public attention is withdrawn from Florida he will be sure to be shot. Governor Marcellus L. Stearns is a man of integrity, who has made a wise and capable Chief Magistrate, has been fairly re-elected, and is only deprived of his re-election by intimidation and fraud, now sanctioned by the Supreme Court, and his life is this night in danger in Florida. Governor D. H. Chamberlain, of South Carolina, is one of the purest and best of men, entitled to rank among the statesmen of our time, whom the Republican party can never too highly honor, and yet the rebel bankrupt, Wade Hampton, boasts that Chamberlain only lives through his magnanimity! Governors Stearns and Chamberlain, if they remain South and are active as Republican politicians, are certain eventually to be taken off by murder, and then the Southern Democratic party, to use the language of the manifesto just quoted, will "confess a fellowship with those abusing her livery by seeking profit through their crime." By murdering Republicans, and not otherwise, have the Southern Democrats given Samuel J. Tilden 49 of his 184 votes.

I have the honor to be, very respectfully,
WM. E. CHANDLER.

*The following papers only accompanying
Mr. Chandler's report are printed:*

RULES OF THE BOARD.

**RULES OF THE STATE CANVASSING BOARD,
ADOPTED NOVEMBER 27, 1876.**

The canvassing board will commence its duties on the twenty-eighth day of November instant, at ten o'clock, and will meet daily thereafter, at the same hour,

unless a different hour be fixed, (except on Sundays and holidays,) and will remain so long in session each day as the necessities of the case may require.

In order to facilitate the canvass within the brief period which remains for that purpose, the following rules of procedure are adopted, and are hereby promulgated:

First. The office of the Secretary of State, where, by law, the board is directed to meet, being small, a limited number of persons only, not exceeding twenty-two in number, equally representing each political party, will be admitted to witness the proceedings, except when the board may think it necessary or desirable to close the doors for deliberation.

Second. The Secretary of State shall open the returns from each county, whereupon the board will proceed to examine the same, and determine from the face thereof, subject to final review, whether the legal formalities and requirements with respect thereto have been complied with, and upon an affirmative determination of such preliminary matters, the chairman shall announce the vote of the county.

Third. On the announcement of the vote of any county, any person may give notice that the said return and the election or vote of said county, or any precinct thereof, will be contested, and the clerk shall forthwith note the objection generally.

Fourth. The contestants, subsequent to the announcement as aforesaid of the result as it appears on the face of the returns, must file with the board brief statements in writing, giving specifically the objections proposed to be made, with particulars of time, place, and circumstance, together with a statement of the relief demanded.

Fifth. In view of the fact that the board has no power to compel the attendance or examination of witnesses, it will receive in evidence proper affidavits, and, also, such official certificates as are made evidence by law, and may be otherwise admissible. If either party desires to produce *viva voce* testimony, they must submit to the board a brief statement, in writing, of the names and residences of the witnesses, and the facts expected to be proved by them, and the board, in their discretion, will allow them to attend, and will themselves examine them—the extent to which this is done necessarily depending on the time at the disposal of the board.

Sixth. The affidavits and documentary proof on each side shall be filed with the board in the office of the Secretary of State, and shall be accessible to the other side, under such regulations as the Secretary of

State shall think proper for the safe keeping thereof.

Seventh. All motions and arguments shall be in writing and signed. No oral arguments will be allowed.

Eighth. The concurrence of a majority of the board being necessary to determine its action, such concurrence, with respect to any proposition or matter, may be formally ascertained by vote, upon motion duly made and seconded, or informally by the assent of at least two members.

Ninth. The board reserves to itself the right to make and announce such modifications of, or additions to, these rules as the case may require. Parties in preparing and presenting their proofs and arguments should bear in mind that the canvass must be completed and the result reached in time for the electors to discharge their duties under the law.

RECORD OF BOARD.

ACTION OF THE FLORIDA STATE CANVASSING BOARD.

Tuesday, 5th December, 10 o'clock A. M., board met in private session.

It was ordered that those counties which are not contested be first taken up and canvassed.

The following counties were then canvassed according to the face of the returns, namely: Brevard, Bradford, Calhoun, Dade, Escambia, Franklin, Gadsden, Hillsborough, Holmes, Lafayette, Liberty, Madison, Marion, Putnam, Polk, Santa Rosa, Sumter, St. Johns, Suwannee, Taylor, Volusia, Wakulla, Walton, and Washington—twenty-four counties.

At 2 o'clock P. M. the board took a recess until 4 P. M., at which hour it reassembled and proceeded with the canvass.

Baker county was taken up and canvassed according to the precinct returns, by unanimous vote of the board.

Clay county—Twenty-nine (29) votes were added to and four illegal votes taken from the Democratic electoral and State vote, and eight votes were added to and two illegal votes taken from the Republican vote, and with these amendments of the return the county was canvassed by a unanimous vote.

Hernando county—Five illegal votes were deducted from the Democratic electoral vote, and with this deduction the county was canvassed by unanimous vote.

Nassau county—Canvassed according to face of return by unanimous vote.

Levy county—Canvassed according to face of return by unanimous vote.

Orange county—Seven illegal votes were deducted from the Democratic electoral

and State vote, and with this deduction the county was canvassed unanimously.

Jefferson county—Sixty illegal votes were unanimously deducted from the Republican vote, and with this deduction the county was canvassed by a majority vote—the Attorney General desiring to throw out several precincts because the county canvassers acted as precinct inspectors, and the voting place had been moved from Beasley's store.

Leon county—Two illegal votes were deducted from the Republican vote, and with this deduction the county was canvassed by unanimous vote.

Manatee county—This entire county was thrown out of the canvass on account of the entire absence of any and all legal steps in preparation for the election and in holding the same. The vote stood as follows: The Secretary of State and Comptroller for its rejection and the Attorney General for retaining it.

Duval county—This county was canvassed by comparing the county return with the several precinct returns on account of the former not having the signature of the county judge. The vote stood: Secretary of State and Comptroller for canvassing the county and Attorney General for rejecting it.

Hamilton county—Eighty-three Democratic and fifty-eight Republican votes which had been illegally added to the electoral vote on the face of the return were thrown out. Jasper precinct No. 2, giving 321 votes for George F. Drew and 183 votes for M. L. Stearns for Governor; 322 votes for N. A. Hull and 181 votes for D. Montgomery for Lieutenant-Governor; 323 votes for the Democratic electoral ticket and 185 for the Republican electoral ticket; 320 votes for Jesse J. Finley and 184 votes for H. Bisbee, Jr., for Congress; 235 votes for N. J. Patterson and 257 for T. N. Bell for State senator; 167 votes for J. N. Reid, 295 votes for W. J. J. Duncan, and 29 votes for J. W. Grey for member of the Assembly, was thrown out of the canvass on account of gross violation of the election law by the inspectors in not completing the canvass without adjournment, in allowing unauthorized persons to handle the ballots and assist in the count, in adjourning over night and going to another place, and in signing returns next day which they had not themselves made or verified, and the contents of which they did not know. With these deductions the county was canvassed by unanimous vote.

Monroe county—Precinct No. 3, Key West, giving 401 votes to the Democratic electoral and State tickets, and 59 to the Republican was thrown out of the canvass

on account of gross violation of the election laws by the inspectors, in adjourning before the completion of the canvass and completing it the next day in a different place, and without public notice. The vote on its rejection was unanimous—the Attorney General deciding, in reply to a question put to him as to the legal effect of these violations of the law, that it must be thrown out. With this deduction the county was canvassed.

Alachua county—Seventeen illegal electoral votes (four Republican and thirteen Democratic) at Waldo precinct were thrown out unanimously.

A vote was taken on retaining or throwing out Archer Precinct No. 2, and the Secretary of State and Comptroller voting to retain it, and the Attorney General voting to throw it out, it was retained, and the county canvassed with the before-mentioned deductions.

Jackson county—Campbelton precinct, giving for the Republican electoral and State tickets 77 votes, and for the Democratic electoral and State tickets 291 votes, was thrown out of the canvass on account of the violation of the election laws by the inspectors in removing the ballot-box from the election-room at the adjournment for dinner into an adjoining store, and leaving it there unsealed and concealed from the public during said adjournment; in not counting the ballots at the close of the polls, and comparing them with number of names on the poll-list, and because only 76 Republican ballots were counted out of the ballot-box, whereas 133 persons swear that they voted the full Republican ticket at that poll. The vote of the board stood as follows: the Secretary and Comptroller for rejecting it, and the Attorney General for retaining it.

Friendship Church precinct, giving for the Republican electoral and State tickets 44 votes, and for the Democratic electoral and State tickets 145 votes, was thrown out of the canvass on account of violation of the election laws by the inspectors in placing the ballot-box in such a position as to be out of sight of the voter and of the public; in placing a supervisor at the window to receive the ballots instead of an inspector; in not making and completing the canvass at the polling place without adjournment, and in view of the public, but in a bed-room two miles away, and in not counting the ballots and comparing them with the number of names on the poll-list. As to this precinct the vote of the board stood as follows: the Secretary of State and the Comptroller for rejecting, and the Attorney General for retaining it. With these deductions the county was canvassed.

The list of counties having now been gone through, at a little after 12 o'clock Tuesday night, the board, by a unanimous vote, declared the State canvass concluded, and directed the clerk to prepare a certificate of the result. On suggestion of the Attorney General, he was requested to call in some friend to look over the clerk's figures and verify the footings. He introduced Mr. Pasco, who examined and found said footings correct.

The certificate of the electoral vote having been prepared and verified, it was signed by two members of the board—the Secretary of State and the Comptroller—the Attorney General declining to sign it, saying that he would prepare a protest setting forth his reasons. The board then adjourned to allow time for the clerical labor of preparing the certificate of the result of the canvass at large. This, having been completed and verified, was signed on the 8th inst., as of date of the 6th inst., the day on which the canvass was concluded.

WM. LEE APTHORP,
Clerk of Board of Canvassers.
SAMUEL B. MC LIN,

*Secretary of State and Chairman Board
of State Canvassers.*

The following is a joint memorandum handed me as clerk of the State canvassing board by Hon. C. A. Cowgill and Hon. Wm. Archer Cocke, members of said board, on the 8th of December, 1876:

(In the handwriting of Dr. Cowgill.)

Points in Monroe county case, upon which the opinion of the Attorney General was asked by one member of the canvassing board with a view to acting according to that opinion.

Do sections 21, 22, and 23, of chapter 1,625, Laws of Florida, imperatively demand that the canvass of votes cast at the election shall be made without adjournment, including the making of the certificate?

When the evidence is contradictory as to the mere count of the vote before adjournment, and it is undisputed that the board adjourned and met next day in a different place, and, according to one inspector, counted all the votes over again, and by testimony of Mr. Clark, arrived at a different result from that of the night before, and according to another inspector, only made out the certificate; in view of this statement of facts, is this a legal canvass?

The Attorney-General said it should be thrown out and not counted.

(In the handwriting of Judge Cocke.)

The board took a recess to afford time to the clerk to make up a tabulated state-

ment of the votes to be afterward compared with the returns; before the certificate had been made out, or the Attorney General was informed that the statement was made out, the Attorney General claimed the right to change his vote on the Monroe county, State election, having voted in favor of throwing out Precinct No. 3, in the electoral vote, the board not having adjourned I claimed the right to change my vote in relation to Precinct No. 3.

The following is the indorsement:

Memorandum handed the clerk by Dr. Cowgill and Judge Cocke.

(Signed) WM. LEE APTHORP,
December 8th, 1876. *Clerk.*

LETTER OF COMPTROLLER COWGILL.

TALLAHASSEE, Dec. 9th, 1876.

General BARLOW:

DEAR SIR: I regret that I did not see you after the canvass, but I was so completely exhausted that I was unable to be out much. I now desire to give you an account of the canvass, and the reasons that actuated me in my votes, as I found the facts in some cases, upon examination, differed from my impression of them.

1st. As to Alachua. The board *unanimously* purged Waldo precinct of 22 illegal votes, dividing the loss between Tilden and Hayes, according to evidence. The Archer precinct was retained against Cocke's vote. Upon this I deliberated thoroughly, and came to the conclusion that the evidence justified its retention.

In connection with Archer precinct I will mention Leon No. 13, Bowes precinct, as you had spoken to me about this, thinking it was in some respects similar to Archer. I knew nothing of it until we met Tuesday to canvass; the evidence on this point having made no impression upon me during the trial. I took up the papers, read the Democratic attack, commented upon it, and before I finished it Cocke said: "I am satisfied that a case has not been made out; there is nothing proven against it;" and we did not even read the defense. The attack was mere assertion. For instance: Mr. Meginnis, a white man, supervisor of election at that precinct, testified that he left his house some miles off early, and that when he arrived at the precinct it was open *too early*, no time being mentioned, although Mr. M. is presumed to have a clock at home, and a watch in his pocket, &c.

Baker—Cocke voted to canvass the return made by clerk and justice. McLin and I said, "No; there are two conflicting returns; let us canvass from the precinct returns, discarding both the others." So we

canvassed the precinct returns (as we had done in similar cases two years ago) and gave the county to the Democrats as they claimed it should be, and as was right.

Duval—Cocke voted against canvassing this county at all, on the ground that there was no return from the county canvassers, the papers purporting to be such being only signed by clerk and justice, although the judge was present and saw the canvass made. Duval to his mind presented a different case from Baker. We, however, canvassed Duval by comparing the county returns with the precinct returns and found both to agree; Cocke voting no. Clay and Columbia we agreed unanimously to admit with the correction in Clay county of 23 votes rejected by county canvassers.

Hamilton—A precinct was rejected unanimously, Cocke particularly strong in his expressions that the inspectors must obey the law strictly in reference to counting and finishing canvass without adjournment and in public. You know the facts in this case perhaps, but I will briefly state them. After the close of the election and during counting two inspectors frequently absented themselves, and the counting, that is handling and reading out the ballots and keeping the tally lists, was done by bystanders, and when box was empty and the tally list in an inextricable muddle, the board adjourned, apparently giving the whole thing over to two lawyers, who next day made out a return which the inspectors signed.

Then Monroe was taken up. By this time, after Cocke's opinion concerning Hamilton, I became convinced that the Monroe precinct should be rejected on this state of facts:

Reyes, an inspector, makes affidavit that the canvass was not completed the night of election, and the next day the inspectors met in a different place and recommenced to canvass, taking four hours to complete it.

Another inspector swore, after General Little's argument had been read, that the counting was completed at night and result announced as stated in the returns made out next day, and Dr. Harris confirmed this, but Clarke swore that the announcement differed from the return as made out. Here was conflicting testimony, and we weighed it in this wise: Reyes made his affidavit before the State canvass commenced, and before discussion was probably had concerning the effect of a recounting, as compared with simply making the returns from a result ascertained the night before. The gentlemen testifying after General Little's exhaustive argument was read, readily saw the importance that might be placed upon this difference of testimony.

Upon arguing the case, Cocke, after being appealed to by me for a legal opinion

as Attorney General, upon the facts, said, "it must be thrown out," and the vote was unanimous on this county.

Just here I will state that Dr. Harris told me, in a very limited conversation, occurring during the canvass as we accidentally walked over from the State-house yard to the hotel, that the only change made the next day in the canvass of that precinct was a change adverse to himself. This was not in evidence, of course, but it satisfied me that there had been a recount of some kind.

An hour after we had finished the canvass, so far as decision upon the counties was concerned, and were only waiting for the electoral certificates to be made out for signature, Cocke, having been interviewed by his Democratic friends, came back and asked me to reverse his vote on Monroe county, the board not being in session, and McLin not being in the room. I was dictating to the clerk the electoral certificate to be sent to the Governor, and only bowed in reply. When the certificate was ready for signature Cocke had left the Capitol. So much for Monroe county.

Jackson county.—McLin and I voted to throw out two precincts, as a logical result arising from Cocke's opinion. Cocke apparently began to get scared at the result of his action, keeping an account of the voting, and said at one time, (I think after the Hamilton county precinct was thrown out,) "this elects Hayes;" at another time, "this elects Stearns," and so he voted against throwing out the Jackson county precincts. The facts of these, briefly, are, concealing ballot-box during dinner, contrary to a plain and express provision of law; less number of Republican votes counted than were proven by affidavits to have been cast; taking the ballot-box in one case two miles off to a house to be counted; height of window from ground, obstructing the view of voters from ballot-box, perhaps an element in connection with the other facts, and with the serious suspicion of fraud arising therefrom.

As to Manatee county, I voted, after getting the opinion of many lawyers on the legality of that vote. If county commissioners had met and designated voting places I think I should have voted to canvass Manatee, but the precincts are not designated by law, but thirty days before each election by the county commissioners, and are frequently changed.

I believe I have given you all the points except in Jefferson. Cocke proposed to throw out one precinct, because the voting place was removed from the store designated to a house 200 yards distant, in plain view, the owner of the store refusing

to have the voting done there; and to throw out three other precincts, because the county canvassers had acted as precinct inspectors.

After our frank interchange of views I thought I owed this explanation to you, as well as to myself. If I have acted wrongfully I have erred in judgment only, but upon a calm review of the case this morning I think I have done right. Cocke told us he was going to protest, and had given a certificate of election to the Tilden electors, who met and voted, but we have not seen his protest nor his certificate. I presume both have been in the Northern papers ere this.

I have taken the liberty of telegraphing to you to wait to receive this letter, before you make any public statement concerning Florida, as I desire you to have the facts and the train of reasoning from them that compelled me to come to the conclusion I did.

I shall be pleased to hear from you at any time, and to give you any information concerning our Florida affairs.

Yours, respectfully,

C. A. COWGILL.

CANVASS UNDER ORDER OF COURT.

In Supreme Court of the State of Florida:

State of Florida on relation of George F. Drew vs. Samuel B. McLin, Secretary of State, William A. Cocke, Attorney General, and Clayton A. Cowgill, members of the board of canvassers of the State of Florida. Petition for mandamus. The said Samuel B. McLin, Wm. A. Cocke, and Clayton A. Cowgill, members of the board of canvassers of the State of Florida, acknowledging service upon them in due form of the writ of mandamus issued by the order of the Supreme Court in the above-entitled proceeding, and taking cognizance of the orders therein, both general and special, and particularly the requirement making report of the action of said board under the said writ due to the said court at the hour of 4 o'clock P. M. of December 27th instant, beg leave respectfully to make return to the court in discharge of its orders in the premises, and also of said writ, requesting that this, their return, may be accepted in discharge thereof. First, they respectfully, but as of right, enter their protest against doing and being required to do any and all the things of them ordered by the said writ of the said Supreme Court, and in connection therewith they deny that the court could rightfully take jurisdiction of the said proceeding and assume to issue said writ against them, because they say the election, the returns of which they are directed now to re-canvass, was a mixed election, being

partly for officers of the State of Florida and partly for Representatives in Congress, of which election they say they were officers within the meaning of section 5115 of the revised statutes of the United States, and being such officers, they say they were bound to observe every duty by the law of Florida imposed upon them in regard to such election, subject to the pains and penalties by the said section prescribed for neglect or refusal to perform such duties, and as they were not at liberty under the said election law of Florida to separate the returns for Representatives in Congress from the returns for State officers for purposes of canvass and count, neither can the court make order requiring them to canvass said returns separately and by different rules. They further say in protest that as such board of canvassers they did heretofore to wit: On the 6th day of December instant assemble, and as in their judgment they thought required by the law of Florida, section 4, of the act approved February 27, 1872, canvass the returns of the election held November 7, 1876, being the same returns they are now by the court ordered and required to re-canvass; that in such former canvass some of the said returns were contested for alleged irregularity, falsity, and fraud, in which cases proof was heard by the board to ascertain if possible the true vote cast for the several candidates in the counties or precincts of counties so contested, with the result that in some instances the aggregate of votes as it appeared on the face of some of the returns was changed by the board to correspond with the aggregate of the true vote as the same appeared by the evidence, while in other cases the returns were entirely rejected, and that in conclusion of the inquiry the majority of the board did determine and declare as to them appeared right, just, and lawful, that the candidates for Governor received votes as follows: Marcellus L. Stearns received 23,656 votes, George F. Drew received 23,208 votes, and that candidates for other offices involved in the said election each received the number of votes set opposite his name, the same being considered his true vote; all which will more fully appear by reference to the certified declaration of result on file in the office of the Secretary of State, whereupon the said board did by resolution passed adjourn their session *sine die*, and cease to have legal existence, inasmuch that it is not possible for any court to reassemble them or revive their functions for any purpose whatever; wherefore, in no wise abating our respect for the court, we declare of the re-canvass now herein below returned to the court, made in conformity to the rules laid

down for such re-canvass in the decision promulgated by the court in the above-entitled cause, and on account of such rules attaining another and different result from the first, and, in our judgment, only lawful canvass, that we regard it as a return void of effect, and we respectfully pray the court that this protest may be admitted as part of such return and become of the record of the court. And now, obediently to the order and writ aforesaid, the undersigned, having in the first place reassembled as a board of canvassers of the State of Florida, proceeded to re-canvass the returns of the several counties of the election for Governor, taking for the purpose the returns on file in the office of the Secretary of State, and they return the following as the determination and declaration of the result of such re-canvass, to wit: Of the candidates for Governor, George F. Drew received 24,179 votes; Marcellus L. Stearns received 23,984 votes. And the undersigned make further return to the court, and say that though not ordered so to do by the court, for various reasons, they deemed best to make, while reassembled as a board as aforesaid, a re-canvass of the said returns of the said election on file in the office of

the Secretary of State, of and concerning the election of other officers voted for at said election, which will be found in the certificate of the result of such re-canvass hereto appended as part of this return. And the undersigned further inform the court that we regard our former canvass of the returns of the election for electors of President and Vice President of the United States, on file in the office of the Secretary of State, as conclusive. Yet, in view of the decision of the Supreme Court, we have re-examined the said returns, and find that a re-canvass of them according to the said decision would show that of the candidates for said electors Frederick C. Humphreys received 24,215 votes, Charles H. Pearce received 24,211 votes, Thomas W. Long received 24,209 votes, William H. Holden received 24,215 votes, James E. Yonge received 24,004 votes, Wilkinson Call received 24,001 votes, Robert B. Hilton received 24,001 votes, Robert Bullock received 24,001 votes.

All which is respectfully submitted.

[Signed]—Samuel B. McLin, Secretary of State and Chairman Board State Canvassers; C. A. Cowgill, Comptroller of Public Accounts.

SOUTH CAROLINA—THE ELECTIONS.

LAWS GOVERNING THE CANVASSING BOARD.

CONSTITUTION OF THE UNITED STATES.

Article 2d, Clause 2d.

Each State shall appoint in such manner as the legislature thereof may direct, a number of electors equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress, but no Senator or Representative or person holding an office of trust or profit under the United States shall be appointed an elector.

CONSTITUTION OF SOUTH CAROLINA.

The supreme court shall have appellate jurisdiction only in cases of chancery, and shall constitute a court for the correction of errors at law under such regulations as the General Assembly may by law prescribe: provided the said court shall always have power to issue writs of injunction, mandamus, *quo warranto*, *habeas corpus*, and such other original and remedial writs as may be necessary to give it a general supervisory control over all the other courts in the State.

BOARD OF CANVASSERS.

By section 12, chapter 8, of general stat-

utes it is required that the secretary of the State appoint a meeting of the State canvassers. This was done by H. E. Hayne, Secretary of State, and the canvassers accordingly met on the 10th of November, and continued in session, from day to day, Sundays excepted, until the canvassing was completed.

DUTIES OF CANVASSING BOARD.

The duties and powers of the board are those usually residing in such bodies, except as modified by the following sections of the "General Statutes:—"

SECTION 26. The board when thus formed shall, upon the certified copies of the statements made by the board of county canvassers, proceed to make a statement of the whole number of votes given at such election for the various officers, and for each of them voted for, distinguishing the several counties in which they are given. They shall certify such statements to be correct, and subscribe the same with their proper names.

SECTION 27. Upon such statements they shall then proceed to determine and declare what persons have been by the greatest number of votes duly elected to such office or either of them. They shall have power, and it is made their duty to decide all cases under protest of contest that may arise when the power to do so does not by the constitution reside in some other body.

The act containing these sections was approved March 1, 1870.

By the law the canvassers are allowed ten days within which to perform their duties. Having met on the 10th of November, they continued in session until the 22d. Pending the performance of its duties, by the board of canvassers, on the 14th of November an application was made to the supreme court of South Carolina on the part of the Democrats for two writs, one *requiring* the board to ascertain what persons had the highest number of votes *according to the returns*, and that they should certify the result to the secretary of State; and one *prohibiting* them from hearing any protest of contest, or from going behind the returns. The two writs were of a directly opposite character. The court then adjourned until the 16th of November, when the motions were argued, and on the 17th the court met and stated through Chief Justice Moses that it decreed and ordered, that the board of State canvassers forthwith proceed to count and compare the returns, and make a report of the result to the court, and certify their action in the premises to the court.

On the 21st of November the board made a report to the court, which, among other things, contained the following:

"This statement is made to the court in obedience to its order of November 17, 1876, but it is respectfully submitted that *under the present proceedings in this court this board is not by law compelled to report any of its actions to the court.*"

The board then recited all errors and the results after correcting them, and stated that allegations and evidences of fraud had been filed with the board as respects Edgefield, Barnwell, and Laurens counties. It also showed that on the face of the returns two Democratic Members of Congress were elected, a number of Democratic State officers, and such Democratic members of

the General Assembly as would give them a majority of the same on joint ballot; and it also set forth that the *Republican electors for President and Vice President had a decided majority*, and several of the State officers. The Hayes and Wheeler electors on the face of the returns are thus secured.

The court was then asked by the Democrats to sever the matters contained in the application for a writ of *mandamus* and for an injunction, and the court allowed the severance; and while the canvassing board was engaged in the discharge of its duties, entertained a *new* application for the *re-counting* of the electoral votes. This was not served on the board until after they had adjourned. The board reported its adjournment to the court, after the discharge of its duties, in answer to proceedings for contempt instituted against them, and notwithstanding the members of the board were committed to jail and released on a writ of *habeas corpus* by Judge Bond.

Such is a brief statement of the law and facts connected with the extraordinary proceedings in South Carolina. 1. It will be observed that the board of canvassers was regularly engaged in the performance of its duties imposed upon it by law when the court interfered, and the application of the Democrats was entertained, to control the proceedings and action of the board. 2. The purpose of the court was manifest, viz: to force the canvassing board to take such action as would secure a majority of the Legislature for the Democrats and the inauguration of Hampton, without regard to the evidences of fraud and illegality before the board, thus securing the Legislature and members of the State government, to control and secure the electoral vote for Tilden and Hendricks. It will be seen, too, by reference to the Constitution of the United States and of South Carolina and of the law, that there was not the slightest authority for the interference of the court. It was simply a bold and deliberate attempt to enrol the State for the Democratic electors and for Hampton and his associates without regard to either the law or the facts. And it has not been abandoned. The court, individuals, and committees are still at work for these nefarious purposes.

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